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OTHER REGULATING THE GRANTING OF VISÉS
BY DIPLOMATIC AND CONSULAR OFFICERS

HEARINGS

BEFORE THE

COMMITTEE ON FOREIGN AFFAIRS

HOUSE OF REPRESENTATIVES

SIXTY-SIXTH CONGRESS

THIRD SESSION

ON

H. R. 15857 and H. R. 15953

OTHER REGULATING THE GRANTING OF VISÉS BY DIPLOMATIC
AND CONSULAR OFFICERS OF THE UNITED STATES,
AND FOR OTHER PURPOSES

JANUARY 22, 24, 28, 31, 1921

STATEMENT OF

HON. JOHN J. ROGERS

A Representative in Congress from the
State of Massachusetts



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COMMITTEE ON FOREIGN AFFAIRS.

SIXTY-SIXTH CONGRESS,

THIRD SESSION.

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JOHN JACOB ROGERS, Massachusetts.

HENRY W. TEMPLE, Pennsylvania.

AMBROSE KENNEDY, Rhode Island.

EDWARD E. BROWNE, Wisconsin.

MERRILL MOORES, Indiana.

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FURTHER REGULATING THE GRANTING OF VISÉS BY DIPLOMATIC AND CONSULAR OFFICERS.

COMMITTEE OF FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Saturday, January 22, 1921.

The committee assembled at 11 o'clock a. m., Hon. Stephen G. Porter (chairman) presiding.

The CHAIRMAN. Mr. Newton, you have a matter which you wish brought up before the committee, have you?

Mr. NEWTON. Yes.

The CHAIRMAN. I will say to the committee that the bill which Mr. Newton has prepared is somewhat urgent, and I will ask Mr. Newton to present it to the committee without any introduction; and, if the committee approves it, we can report it out.

Mr. NEWTON. I have three carbon copies of it.

[H. R. 15857, Sixty-sixth Congress, third session.]

A BILL Further regulating the granting of visés by diplomatic and consular officers of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from the date on which the provisions of the act of Congress, approved the 22d day of May, 1918, entitled "An act to prevent in time of war departure from and entry into the United States, contrary to the public safety," shall cease to be operative, and until and including the 30th day of June, 1922, it shall be unlawful for any alien, other than a seaman, to enter or attempt to enter the United States without a valid passport or document in the nature of a passport duly viséed by a person duly authorized by the Secretary of State to issue such visé: *Provided,* That this prohibition shall not apply to nationals of Great Britain domiciled in the Dominion of Canada, Newfoundland, the Bermudas, the Bahamas, or the British West Indies, or to nationals of France domiciled in Saint Pierre and Miquelon, or to citizens of Cuba, Panama, Mexico, or to any alien, presenting himself at a port of the United States for admission, if otherwise admissible, who shall prove to the satisfaction of the Secretary of State and the Secretary of Labor that he is seeking admission to the United States to escape or avoid political persecution in the country of his last residence whether such persecution be evidenced by overt acts or by laws or governmental regulations directed against the alien himself or the race or nation or political subdivision to which he belongs, and such alien, if otherwise admissible, shall be considered as entitled to admission whether or not he is the bearer of a valid passport or document in the nature of a passport. The Secretary of State is authorized, in lieu of passport requirements, to make special regulations governing the temporary admission of alien seamen.

Any person who shall willfully violate any of the foregoing provisions, or of any order or proclamation of the President promulgated in pursuance of this act, or of any permit, rule, or regulation issued thereunder, shall, upon conviction, be fined not more than \$1,000, or, if a natural person, imprisoned for not more than one year, or both; and any person or the officer, director, or agent of any corporation who knowingly participates in such violation shall be

punished by like fine or imprisonment, or both; and any vehicle or any vessel, together with its or her appurtenances, equipment, tackle, apparel, and furniture concerned in any such violation may be forfeited to the United States.

The visé of a passport of an alien shall, under regulations prescribed by the Secretary of State, be refused if the applicant would be dangerous to the public safety or obviously liable to exclusion if allowed to present himself at a port of the United States for admission: *Provided*, That such applicant, if rejected by the officer of the United States to whom the application was originally made, may appeal to the Secretary of State: *Provided further*, That the issuance of a visé to an alien by a person duly authorized to issue such visé on behalf of the United States shall not relieve said alien or the steamship company transporting him from the operation of any provision of the laws of the United States.

[H. R. 15953, Sixty-sixth Congress, third session.]

A BILL Further regulating the granting of visés by diplomatic and consular officers of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from the date on which the provisions of the act of Congress approved the 22d day of May, 1918, entitled "An act to prevent in time of war departure from and entry into the United States contrary to the public safety," shall cease to be operative, and until and including the 30th day of June, 1922, it shall be unlawful for any alien, other than a seaman, to enter or attempt to enter the United States without a valid passport duly viséed by a person duly authorized by the Secretary of State to issue such visé: *Provided*, That this prohibition shall not apply to nationals of Great Britain domiciled in the Dominion of Canada, Newfoundland, the Bermudas, the Bahamas, or the British West Indies, or to nationals of France domiciled in Saint Pierre and Miquelon, or to citizens of Cuba, Panama, Mexico, or to any alien presenting himself at a port of the United States for admission, or at the port of any foreign country where a United States consular office is maintained, if otherwise admissible, who shall prove to the satisfaction of the Secretary of State that he is seeking admission to the United States to escape or avoid political, racial, or religious persecution in the country of his last residence, whether such persecution be evidenced by overt acts or by laws or governmental regulations directed against the alien himself or the race or nation or political subdivision to which he belongs; and if such alien, if otherwise admissible, shall be considered as entitled to admission whether or not he is the bearer of a valid passport. The proof herein referred to in every case shall be reduced to writing. The Secretary of State is authorized and directed to prescribe the rules and regulations governing the nature of the proof required and the character of the evidence to be received.

When any alien who is otherwise admissible shall present through the appropriate diplomatic or consular officer of the United States proof, of a character satisfactory to the Secretary of State, that he is unable to procure a passport from his own Government for reasons which would not render such alien inadmissible under the immigration laws of the United States, the Secretary of State shall authorize the said diplomatic or consular officer to issue to the said alien a document in lieu of a passport which shall set forth all of the facts usually required in a passport, and such document when so issued shall be treated as a passport, within the meaning of this act, for the purpose of admission into the United States: *Provided*, That for each such document issued there shall be collected and paid into the Treasury of the United States the fees prescribed by law for the issuance of a passport and for the visé of each such document the fees prescribed by law for the granting of a visé.

The Secretary of State is authorized, in lieu of passport requirements, to make special regulations governing the temporary admission of alien seamen.

Any person who shall willfully violate any of the foregoing provisions, or of any order or proclamation of the President promulgated in pursuance of this act, or of any permit, rule, or regulation issued thereunder, shall, upon conviction, be fined not more than \$1,000, or, if a natural person, imprisoned for not more than one year, or both; and any person or the officer, director, or agent of any corporation who knowingly participates in such violation shall be punished by like fine or imprisonment, or both; and any vehicle or any vessel,

together with its or her appurtenances, equipment, tackle, apparel, and furniture concerned in any such violation may be forfeited to the United States.

The visé of a passport of an alien shall, under regulations prescribed by the Secretary of State, be refused if the applicant would be dangerous to the public safety or obviously liable to exclusion if allowed to present himself at a port of the United States for admission: *Provided*, That such applicant, if rejected by the officer of the United States to whom the application was originally made, may appeal to the Secretary of State: *Provided further*, That the issuance of a visé to an alien by a person duly authorized to issue such visé on behalf of the United States shall not relieve said alien or the steamship company transporting him from the operation of any provision of the laws of the United States.

The CHAIRMAN. The bill is with regard to an extension of the passport-control acts. One of the acts expires March 4 next, in case we have peace with Germany, and the other act expires at the time the President issued the proclamation of peace. This is extending the original acts for a period of one year.

Mr. HUDDLESTON. Well, I will be compelled to make a point of order on that, Mr. Chairman.

The CHAIRMAN. Will you state your point of order?

Mr. HUDDLESTON. That the bill has not yet been introduced. That is a matter of very considerable importance; and some members of the committee may remember that I had very acute feelings on the subject when we passed the act that is now the law. I objected to any extension beyond the original period of this passport control. Finally, by compromise, it was agreed that the passport control would expire at a certain time.

Now, if it is proposed to extend that time and give our State Department a right to keep an American citizen out of his own country unless they choose to let him in, you will have to do it in the regular way.

Mr. ROGERS. May I ask Mr. Newton a question, Mr. Chairman?

The CHAIRMAN. Yes.

Mr. ROGERS. Does this bill have any application whatever to American citizens?

Mr. NEWTON. No; it relates only to aliens.

Mr. HUDDLESTON. Well, I have not seen the bill; so I do not know what it contains.

Mr. BEGG. Let me ask this question: What is the necessity for speed in this case?

Mr. NEWTON. Because the act expires on the 4th of March.

Mr. BEGG. Then, why has it not been taken up before this?

Mr. NEWTON. We have been anticipating that the immigration bill, which passed the House during the first weeks of December, would be acted upon by the Senate; and that bill contains a provision along these lines, for the control by viséing the papers of aliens entering this country.

Mr. BEGG. May I ask another question in that connection: Why would not the best way to accomplish this be to simply provide that the acts passed on a certain date be extended to June, 1922, or something like that?

The CHAIRMAN. We have changed the phraseology of the law a little in this bill.

Mr. HUDDLESTON. Mr. Chairman, this is a matter of such importance that I think we ought to have a bill introduced and have some

opportunity to read it beforehand, especially as we have no copies of this bill.

Mr. ROGERS. If I may suggest this, Mr. Chairman, it is now quarter of 12; and this bill can be introduced at 12 o'clock, and taken up by the committee five minutes afterwards.

Mr. BEGG. Well, we do not have authority to sit during sessions of Congress.

Mr. HUDDLESTON. No; we have no authority to sit during sessions of Congress.

Mr. NEWTON. This committee has authority to sit; it was granted in the beginning of the session.

The CHAIRMAN. I think you are mistaken about that, Mr. Newton.

Mr. MASON. Yes; that was granted only in certain specific cases.

I have no objection, if you will permit me to say so, to taking this up and discussing it. I do not know what the bill is. As my colleagues on the committee know, I am opposed, and I know my constituents are opposed, to a bill which makes anybody have to get the consent of his master, the king, before he can come into this country. And I will oppose it, and make all the points of order against it that I can.

Mr. NEWTON. As I understand, Mr. Mason, you are opposed to any scrutiny by any consul or consular agent of the United States, of the character or record of any alien who desires to come into this country?

Mr. MASON. Not at all. But when they want to come in here to escape the tyranny of the Old World, and political or racial persecution, and can show that they are well-intentioned men, who can comply with our laws in regard to health and character, and who want to live under our form of government, I do not believe in letting a little man down there in the State Department send them back, and deny them the refuge that our fathers gave to the oppressed people of other countries.

Mr. NEWTON. This bill that I am going to introduce excepts from its provisions those who are seeking to avoid political persecution in the country of their residence, and so on.

Mr. MASON. Is it broad enough to include those who are persecuted for racial differences?

Mr. NEWTON. It is not broad enough to take in a lot of people that I personally do not care to have taken in. Here is the provision:

Provided, That if such alien shall prove to the Secretary of State and the Secretary of Labor that he is seeking admission to the United States to escape or avoid political persecution in the country of his last residence, whether such persecution be evidenced by court acts, or by laws or governmental regulations directed against the alien himself, or the race, or nation, or political subdivision to which he belongs, such alien if otherwise admissible, shall be considered as entitled to admission.

Mr. HUDDLESTON. What is before the committee, Mr. Chairman?

The CHAIRMAN. Nothing now.

Mr. HUDDLESTON. Mr. Chairman, I do not see any necessity for any haste in this matter.

The CHAIRMAN. We will have the resolution introduced to-day, and we can consider it Monday.

(Thereupon, at 11.45 a. m., the committee adjourned until Monday, January 24, 1921, at 10.30 o'clock a. m.)

COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Monday, January 24, 1921.

The committee met at 10.30 o'clock a. m., Hon. Stephen G. Porter (chairman) presiding.

**STATEMENT OF HON. JOHN JACOB ROGERS, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF MASSACHUSETTS.**

Mr. ROGERS. Mr. Chairman and gentlemen of the committee, I am very glad, indeed, to say a few words with the permission of the committee in favor of H. R. 15857, introduced on January 22 by Mr. Newton, of Minnesota, a member of this committee.

In connection with the preparation of the Diplomatic and Consular appropriation bill this year there was an item submitted by the State Department asking for an appropriation of \$1,000,000 for the administration of the pass-port control act for the ensuing fiscal year, 1922. It therefore became necessary for the Committee on Appropriations to consider what ought to be recommended in pursuance of the estimate, and we consequently held quite full hearings on the general subject of passport control, its operation and effectiveness in the past, and its necessities for the future.

Mr. HUDDLESTON. Mr. Rogers, may I ask you there what jurisdiction your committee had of that matter, as it affects purely a question of public policy of which this committee has exclusive jurisdiction?

Mr. ROGERS. I undertook to explain, Mr. Huddleston, that the estimates carried an appropriation of \$1,000,000 for the administration of a current law.

Mr. HUDDLESTON. I understand your committee has jurisdiction only of appropriations authorized by law?

Mr. ROGERS. Precisely.

Mr. HUDDLESTON. And since this is not authorized by law, I inquired what business your committee had with it?

Mr. ROGERS. My impression was that it was authorized by law.

Mr. HUDDLESTON. It is not authorized by law. The law expires on March 4.

Mr. ROGERS. Oh, no; I beg your pardon. The law expires when peace is formally arrived at, and no one knows whether peace will be arrived at before the beginning of the next fiscal year or the end of it.

Mr. NEWTON. Mr. Huddleston, the bill Mr. Rogers refers to is the public act approved on the 22d day of May, 1918, the act to prevent in time of war departure from and entry into the United States contrary to public safety.

Mr. HUDDLESTON. Yes.

Mr. NEWTON. That is still current law, of course.

Mr. HUDDLESTON. When does it expire by its terms?

Mr. NEWTON. It can not expire by its terms until there has been a formal declaration of peace.

Mr. ROGERS. And as far as the Committee on Appropriations or this committee, I should suppose, is concerned—

Mr. HUDDLESTON (interposing). One moment.

Mr. ROGERS. Just let me finish the sentence.

Mr. HUDDLESTON. So that I may get a clear understanding of this matter on that particular point. What statute is it that expires that it is necessary we should continue?

Mr. ROGERS. It is Public Act No. 79, of about November, 1919, which was passed at a time when it was presumed that peace would have come prior to March 4, 1921. Therefore, the public act, by its terms, was to become effective when the act of May 25, 1918, became inoperative and was to continue until the 4th day of March, 1921, but as peace will not be formally arrived at before March 4, 1921, as we are quite certain—morally if not legally certain—Public Act No. 79 will never come into effect, and all passport regulations will cease to be effective whenever formal peace is arrived at.

As I started to say when Mr. Huddleston questioned me, neither this committee nor any other committee of the House can say, as a matter of law, when peace will have come. Therefore, as the Committee on Appropriations conceived, it was the duty of that committee to consider what the situation was and what the requirements were for the ensuing fiscal year.

Mr. NEWTON. If you had taken any other position you would have been arrogating to yourself the jurisdiction of a legislating committee by refusing to provide an appropriation for something that is authorized by law and will be until there is a declaration of peace.

Mr. ROGERS. The date of which, of course, no one can predict with confidence.

Mr. HUDDLESTON. May I ask a question?

Mr. ROGERS. I am very anxious to make a very brief statement, because I have to leave in five minutes, but I do not want to be discourteous.

Mr. HUDDLESTON. So far as I am concerned, I am asking about a matter thoroughly germane to the point we are considering.

Mr. ROGERS. Very well. Of course, I should not want to refuse to answer.

Mr. HUDDLESTON. I want to inquire whether this is the provision you refer to, "That when the United States is at war," is that the clause that fixes the term of this act?

Mr. ROGERS. That is my understanding of it; yes.

Mr. HUDDLESTON. There is no clause, then, providing that until peace has been formally proclaimed or any other language of that substance?

Mr. ROGERS. If the chairman cares to follow his practice in connection with a previous hearing, perhaps, he will incorporate in this hearing the testimony that was taken before the Committee on Appropriations, and that will be found in the hearings on pages 69 to 72, 94 to 115, and 126 to 129.

Immigrants are coming to the United States at this moment at the rate of 90,000 a month, or at the rate of something more than 1,000,000 a year. The passport-control system for the past year has cost something less than \$400,000 and is bringing revenue into the United States Treasury at the rate of \$1,000,000 a year, assuming that the present rate of immigration continues unchanged. So that from the standpoint of revenue merely, the passport-control act is well worth considering, but I prefer to put it on the ground of protection of America against undesirable immigration.

Mr. LINTHICUM. May I ask you a question there?

Mr. ROGERS. Yes, sir.

Mr. LINTHICUM. You are deriving that revenue from the increase to \$10 which we provided for at the last session?

Mr. ROGERS. Yes, sir. In other words, if there are 1,000,000 immigrants, it will be \$10,000,000 in revenue.

Mr. LINTHICUM. While it is true we are getting that revenue, is it not also true that our people are paying to the other governments the equivalent of that \$10 which they have received through their passport control offices?

Mr. ROGERS. I have heard it suggested that the charge for visés had been increased in some cases in connection with American travel. Of course, it might be argued that the sort of travel that goes out from America is tourist travel and not immigration travel and can afford to pay the added tax.

Mr. LINTHICUM. There is a lot of business travel?

Mr. ROGERS. Yes; it includes business travel. I am not able to say, Mr. Linthicum, just how general that practice has been of increasing the visé fees.

Mr. LINTHICUM. They have all been practically increased, so I am informed by people who are traveling.

Mr. ROGERS. The testimony shows that during the past year the passport control office in various branches abroad actually viséed 544,000 passports, and this year they are faced with the problem, as I say, of viséing something over 1,000,000. They have a personnel of about 373 special employees who are paid out of the special passport control fund. In addition to the special employees, the consular officers of the Government, the permanent and established officers, have to give a very large portion of their time to passport control work. One witness testified that during recent months our consuls abroad had devoted an average of 60 per cent of their time to passport control work and 40 per cent of their time to their regular and legitimate consular work. That, of course, represents a condition that ought not to be allowed to continue, because if our Consular Service is to function successfully, it must function on the basis of performing its normal consular duties. Therefore, while the Committee on Appropriations, I think, deemed that there was some justification for the request of the State Department for \$1,000,000 for the continuance of passport control, they felt that they must cut that amount down. They could not give two and a half times as much as was carried in the present law, and yet at the same time they felt they must give a substantial increase over the present law. Therefore, they are recommending \$600,000 for the ensuing year, which is an increase of 50 per cent, and which it is hoped will relieve the consuls of the tremendous burden which is upon them.

At some cities the work has been very large. For instance, take the case of Warsaw. The visés granted between June 30 and September 30 were 24,107; at Belgrade, there were 7,000 in that period; at Naples, thousands and thousands of passports are applied for every day.

Mr. LINTHICUM. What do you find to be the situation at Prague?

Mr. ROGERS. Czechoslovakia as a whole—and I think the only visé office is at Prague, but I am not quite sure—for the quarter ended

March 31 last there were 902 visés granted and 37 visés refused; for the quarter ended June 30 last, there were 3,161 visés granted and 24 refused; for the quarter ended September 30 last, there were 9,689 visés granted and 24 visés refused.

Taking the situation as a whole, there are only about 2 per cent of refusals in proportion to the number applied for. In other words, if there should be an immigration at the rate of 1,000,000, and consequently that number of visés applied for, there would be 20,000 refusals, and it is safe to say that every one of those 20,000 would have been an undesirable immigrant from our point of view. But there is a further protection, according to the testimony of the experts in the administration of this question, that many men would come to this country if it were not for this barrier, are prevented from making the effort because they know they would be refused. So in the opinion of the officials who have been actually executing the work, there is a psychological protection in addition to the actual protection indicated by the 2 per cent of refusals.

I feel very strongly that the consular officers abroad should have added power on top of what they already have, and I am particularly in favor of the language in Mr. Newton's bill, which is to be found on page 3, lines 7 to 11. The consular officer at this moment can only refuse a visé if the prospective immigrant is of an anarchistic or radical character, which, in the opinion of the counsel, makes him a menace to the institutions of the United States. Mr. Newton's proposal would permit the visa to be withheld by the consul if it was perfectly clear to the consular officer that the immigrant ought not to come to the United States under the immigration laws of the United States. I believe that would be a protection to the consul and a protection to the prospective immigrant as well.

Mr. HUDDLESTON. May I ask you just on that point, how do you derive the statement that the consul can refuse a visé only upon the conditions which you have named?

Mr. ROGERS. I derive that from an examination of the law and from the statement of Secretary Lansing before this committee and the testimony of the various officials who have been actually administering the law and the regulations of the department, as Mr. Newton suggests.

Mr. HUDDLESTON. Let me say that I made inquiry at the visé office as to the conditions upon which aliens might have their passports viséed, and I was told that it was governed by secret instructions to the consuls, and that there was no information that could be given, and what they would recommend would be that the man who wanted to come should apply for a visé.

Mr. ROGERS. Those instructions are not secret in the sense they are secret from you. They are accessible to you, if you care to examine them, and I have a set of them in the office. They are confidential because the State Department does not believe that any useful service will be performed by enabling people who want to evade the law from knowing exactly the ins and outs of our departmental regulations.

Mr. HUDDLESTON. As to those who want to comply with it, they think it undesirable that they should know what it is so that they would be more readily enabled to comply with it; does it not work around that way?

Mr. ROGERS. I have completed my statement. May I be excused, Mr. Chairman?

Mr. LINTHICUM. I was hoping you would take up the embassy question to-day.

Mr. ROGERS. If I may be permitted, I will return as soon as I can and sit in with the committee.

The CHAIRMAN. Yes; we will be glad to have you come back.

(The committee thereupon proceeded to the consideration of executive business, after which it adjourned.)

(The extracts from the hearings referred to by Mr. Rogers follow:)

EXPENSES OF PASSPORT-CONTROL ACT.

Mr. ROGERS. The last thing that I shall personally want to detain you with, Mr. Davis, is the last item in the bill, expenses under the passport-control act. If you have a general idea as to what our future policy should be in respect of the control of departures from Europe through the medium of the passport-control act, I should like very much to have your opinion about it.

Mr. DAVIS. I am not conversant with these details here, but I have one very distinct idea, and that is that it would be a great saving to us to be able to exercise much more control abroad than after they land in the United States.

Mr. SMALL. Are you authorized to do that under existing law?

Mr. DAVIS. Yes; but we have not the personnel over there to make the investigations. I have thought about the matter considerable lately, and have had some discussions about it. With the thousands and thousands of immigrants coming for visés, naturally our people have not the personnel to investigate them.

Mr. ROGERS. If you will pardon me, you have not the authority under the law to-day, as I understand it, to withhold a visé in Warsaw, for instance. If an immigrant comes there who is syphilitic or a blind man or for obvious reasons is certain to be excluded when he comes to the United States, you can not refuse to visé his passport.

Mr. ELSTON. I have seen circulars sent out indicating that they have.

Mr. ROGERS. There is no authority for it under the law.

Mr. DAVIS. You are right. We can do it based only on their character. We can not do it on their physical condition.

Mr. ROGERS. I may say that for two years I have been trying to get a law through Congress which will give the consular officers a certain degree of discretion in withholding visés in the case of applicants who are clearly excludable under the immigration law.

Mr. DAVIS. That is the proper way to do it, but when you do that you ought to really put up enough to enable them to get good men so there will not be any graft connected with it.

Mr. SMALL. Or any mistakes.

Mr. ROGERS. And you believe in the extension of this passport-control system to permit that?

Mr. DAVIS. Yes, sir.

Mr. ROGERS. Assuming that is not permitted and assuming you have control over the character of the applicant and over nothing else, do you think this system is worth while continuing?

Mr. DAVIS. Oh, yes; I do.

Mr. ROGERS. What good does it do? What percentage of refusals of visés on the ground of character are now recorded?

Mr. DAVIS. I do not know the percentage, but we are constantly communicating on that matter and I am signing cables every day. I think the percentage must be very small, Mr. Rogers.

Mr. ELSTON. The percentage of refusals?

Mr. DAVIS. Yes; but I think the psychological effect is very advantageous.

Mr. ROGERS. Do you think you now pick off some pretty bad eggs?

Mr. DAVIS. Oh, yes; we do pick some real birds. There is no doubt of that, and sometimes we pick the leaders and the agitators. We get those.

Mr. ROGERS. Can you tell us, Mr. Carr, how many refusals of visés there have been in a definite period just past?

Mr. CARR. I would not like to trust my memory on that, but I will bring you the information. The number of refusals by the consuls is relatively small compared with the number coming over; but on the other hand, as Mr. Davis said, probably one of the most important aspects of this thing is the psychological effect upon the people seeking to come over, and it does have a marked effect upon them.

Mr. ROGERS. I understand you to think this is well worth continuing even on the present basis, but that it would be conspicuously more if you had an enlarged basis for functioning.

Mr. DAVIS. Decidedly; yes, sir.

Mr. ROGERS. If merely the present system should be retained, how much money are you going to need; not this \$1,000,000?

Mr. CARR. Yes.

Mr. DAVIS. We ask for \$1,000,000, which is an increase of \$600,000.

Mr. CARR. When this appropriation was first made, you will remember that immigrants were coming in in comparatively small numbers; now they are coming, we estimate, at not less than 700,000 a year.

Mr. DAVIS. You might show Mr. Rogers some of the cables from our consulates. They are being swamped, and they say, "For goodness sake, stop immigration for a while. The crowds that are coming here are tremendous and it is too much to take without much assistance." Several of them have recommended we stop it completely until we can set up more machinery for handling it. This passport work is now taking all their time and they are not able to attend to many of their other duties.

Mr. ROGERS. This entire question presents a rather important question of policy because the legislation under which you are functioning becomes inoperative, as I recall it, when peace comes.

Mr. CARR. Yes.

Mr. ROGERS. At that time, unless there is an extension of the legislation, these powers go out of existence, so I think we shall have to go into this question carefully, Mr. Carr, and perhaps get you to come down with one or two of the men in the department who have been operating under the passport control act. As a practical matter, do you know whether consuls do refuse visés on grounds other than those which the law permits.

Mr. CARR. I do not think they do. Occasionally, perhaps, somebody does, but I do not think they do, as a rule. There are a good many of them who would like to.

Mr. ROGERS. Well, take the case of the consul general at Warsaw, which I suppose is one of the worst places. There are thousands and thousands of Polish Jews, I am told, lined up outside the quarters there day after day seeking visés.

Mr. DAVIS. Yes; the last estimate was 120,000.

Mr. ROGERS. Every one of them wants a visé and every one of them, probably, has an unpronounceable name, and it may be his own or it may be an assumed one. What can the consul in a case like that do that is valuable in passing upon the individual's application for a visé.

Mr. DAVIS. Well, I will tell you one thing having to do that delays it a great deal.

Mr. ROGERS. Well, that is a good point, but that is an indirect result of the act.

Mr. CARR. And he utilizes whatever local machinery there is to investigate.

Mr. DAVIS. They do all they can. The minister and his staff work with the consul on these questions in making investigations as to the people who want to come over. Our legations are doing all they can.

Mr. ROGERS. Well, take a cue of 100 men passing by a desk in a day, have they any knowledge of the antecedents of any one of those men as a matter of common practice?

Mr. DAVIS. Not unless they have been instigators or have been sufficiently active to attract the attention of the various authorities. I think on that subject we had better get Mr. McBride down here, who is in charge of this passport-control work. He can tell you more of the details. I must say that our control is practically limited to people who have been open instigators.

Mr. ROGERS. The presumption, apparently, must be that a man is all right unless they know something to indicate that he is not.

Mr. DAVIS. That is right.

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WEDNESDAY, JANUARY 5, 1921.

STATEMENT OF MR. WILBUR J. CARR, DIRECTOR, CONSULAR SERVICE, ACCOMPANIED BY MR. H. A. McBRIDE AND MR. TRACY LAY.

VISÉ SYSTEM.

Mr. ROGERS. Mr. McBride, you are the chief of the visé office of the Department of State?

Mr. McBRIDE. Yes, sir.

Mr. CARR. Mr. Chairman, Mr. McBride is a regular member of the consular service and his last post was Warsaw.

Mr. ROGERS. I think either you or Mr. McBride, Mr. Carr, had better put into the record at this point a very brief recapitulation of what the legislation is, so we will have that foundation for our further discussion.

Mr. CARR. Mr. Chairman, with respect to this item of appropriation for the continuance of the visé system during the next fiscal

year, it will be recalled that Congress enacted a law on May 22, 1918, authorizing the President in time of war, when he found it necessary in the public interest, to issue regulations controlling travel into and out of the United States both of Americans and of aliens through the visé of passports, and providing certain penalties for persons violating that act.

The part of that act especially pertinent to this inquiry is the following:

"That when the United States is at war, if the President shall find that the public safety requires that restrictions and prohibitions in addition to those provided otherwise than by this act be imposed upon the departure of persons from and their entry into the United States, and shall make public proclamation thereof, it shall, until otherwise ordered by the President or Congress, be unlawful:

"(a) For any alien to depart from or enter or attempt to depart from or enter the United States except under such reasonable rules, regulations, and orders, and subject to such limitations and exceptions as the President shall prescribe"; etc.

Section 2 of the same act made it unlawful "for any citizen of the United States to depart from or enter or attempt to depart from or enter the United States unless he bears a valid passport."

It will be noted that the application of the act is limited to that period when the United States is at war. Anticipating a possible return to a state of peace, there was presented to the President on October 29, 1919, an act which became law without his signature, providing as follows:

"That if the President shall find that the public safety requires that restrictions and prohibitions in addition to those provided otherwise than by this act be imposed upon the entry of aliens into the United States, and shall make public proclamation thereof, it shall, until otherwise ordered by the President or Congress, be unlawful:

"(a) For any alien to enter or attempt to enter the United States except under such reasonable rules, regulations, and orders, and subject to such passport, visé, or other limitations and exceptions as the President shall prescribe"; etc.

Sections 4 and 5 of the same act provide:

"SEC. 4. That in order to carry out the purposes and provisions of this act the sum of \$600,000 is hereby appropriated.

"SEC. 5. That this act shall take effect upon the date when the provisions of the act of Congress approved the 22d day of May, 1918, entitled 'An act to prevent in time of war departure from and entry into the United States, contrary to the public safety,' shall cease to be operative, and shall continue in force and effect until and including the 4th day of March, 1921."

As no other funds had been provided to defray the expenses of passport control under the act of May 22, 1918, and as the continuance of a state of war postponed the application of the act of October 29, 1919, a joint resolution was passed on December 24, 1919, making the sum of \$450,000 available for the remainder of the fiscal year 1920 out of the \$600,000 carried in the above act. In the diplomatic and consular act approved June 4, 1920, the remaining \$150,000 and an additional sum of \$250,000 was made available under the act of May 22, 1918, and the new act when the new act "shall become effective," which means after the return of a state of peace. It will be noted from the foregoing that the continuance of a state of war left in effect the original act of May 22, 1918, and that the new act, known as Public Act No. 79, has never come into operation.

Mr. ROGERS. And in all human probability will not come into operation?

Mr. CARR. It never will, and hence we are still acting under the act of May 22, 1918. Last year Congress appropriated \$250,000 and the unexpended balance of a former appropriation of \$150,000, giving us a total appropriation this year of \$400,000; that is used for the purpose of employing clerks in consulates abroad to administer this law, and, in addition to those clerks, paying rent, contingent

expenses, and buying furniture in connection with the exercise of this visé function, amounting as a whole to the full amount of the appropriation. The item for clerk hire is \$354,138, furniture \$16,117, leaving for contingent expenses \$29,945. We have altogether about 373 people engaged in this work, who are paid from this appropriation.

Mr. ROGERS. Engaged exclusively on this work?

Mr. CARR. Engaged exclusively on this work of visé control.

Mr. ROGERS. Those are all in the field, or does that include Washington?

Mr. CARR. That is all expended in the field; none is expended in Washington. It was the intention of Congress to have some expended in providing personnel for the visé office, but a provision in the legislative bill which had doubtless been overlooked caused the Comptroller of the Treasury to hold that the money was not legally disburseable in the Department of State.

Mr. ROGERS. In addition to the 373 persons who devote their exclusive time to this work, I suppose there is a large force of your permanent foreign office officials who devote a considerable portion of their time either to supervision or to direct performance of the work?

Mr. CARR. Yes; that is one thing that I wanted to get before this committee very clearly. We in the department realizing that there would come before Congress at this session the matter of policy as to whether to continue this visé control in the future, having in mind the probability of some immigration legislation being considered, and having inadequate information in the department as to the operations in the field of the passport-control system, caused Mr. McBride to be sent abroad last autumn to visit the principal visé offices and to investigate the conditions there. He has now returned and is assigned to the department and has the exact facts with reference to the situation. It was for the purpose of getting before your committee what is being done in reference to the visé work and what is being done through the employment of the regular consular force and its appropriations, in addition to the amount of money which has been given us for this special purpose, that I asked Mr. McBride to come down and to place himself at your disposal this morning.

Mr. ROGERS. Take what I suppose is one of the most difficult visé posts in the world, Warsaw; we have a consul general at Warsaw, have we not?

Mr. CARR. Yes, sir.

Mr. ROGERS. That consul general probably has given a great portion of his time, and his assistants also, to questions arising out of the visé function?

Mr. CARR. Yes, sir.

Mr. ROGERS. Is there any deduction made from your consular salary item to compensate for the amount of time that he gives under the visé item?

Mr. CARR. No, sir.

Mr. ROGERS. So the appropriation of \$400,000 or \$450,000 which you have up to now pays only those men who are employed specifically to do the visé work, and does not help you out on the consular salaries?

Mr. CARR. No, sir. I might say that the result of this visé work has been to stop almost completely in those large visé offices all the commercial work of the consular service and has interfered with a

great deal of the other work of the consuls. Mr. McBride has been the consul at Warsaw during a part of this period and he would be glad to explain in detail and give you any facts which you may desire.

Mr. ROGERS. I think that the committee would be very glad to hear Mr. McBride on that point, but before he does that I want to recur to what has troubled me a great deal about this thing. I have always felt that the visé system of controlling immigration from Europe, Asia, and Africa was the most wholesome possible thing for the welfare of the United States as a permanent policy. It puts these men through a double sieve before they start, where there can be an effective scrutiny of the immigrants, not only physically but along general citizen availability lines, but as Mr. Davis and Mr. Carr reminded us the other day this great visé organization, which has grown up all over the world to care for the passports of persons seeking to come to the United States, has no power whatever to refuse the visé unless, in the judgment of the consul or the passport office, the particular applicant would be dangerous to the institutions of the United States. That is a limitation upon character solely.

A man may, as I understand it, be of the worst possible character, a hardened criminal, and yet the visé officer would have no authority to refuse the visé, unless his criminality was of a kind which would be dangerous to the institutions of the United States. In other words, it is the radical, anarchist, and red control which it is limited to at the present time. With that limitation, the question in my mind is whether it is worth continuance. The further question arises whether if we are to continue we ought not to extend it so as to make it a real useful supervisory function.

In the conference report which we submitted to the House on the 1921 bill we had this section:

The visé of a passport of an alien may, under regulations prescribed by the Secretary of State, be refused if the applicant would be dangerous to the public safety or obviously be liable to exclusion if allowed to present himself at a port of the United States for admission.

In other words, a murderer or a syphilitic or a degenerate could be turned back without the visé.

Mr. ELSTON. Is not that language a part of the law now?

Mr. ROGERS. No, sir; because this conference report was defeated by the House on another point, and when the conferees came together again they concluded that they had better strike out the defeated portion, and this at that time naturally fell with it.

Mr. ELSTON. What is the exact language which now remains?

Mr. ROGERS. You will find the exact language which now remains on pages 50 and 51 of the bill before you.

Speaking very generally, it is simply a program for increasing revenue by charging \$10 for passports to citizens and \$10 for visé to aliens.

Mr. ELSTON. On what do you base the statement that the passport officials in foreign countries have the right to pass on character?

Mr. ROGERS. I say they have no right to pass on character, except as it affects the welfare of the United States. That conclusion and that administration of the law by the State Department is based upon the fact that the war emergency law of May 22, 1918, out of

which grew the passport system, specifically states that it is in aid of the public safety or something of that sort.

Mr. CARR. Public safety, in addition to any existing law, and, therefore, it did not suspend the immigration laws. The immigration laws as they stand afford every immigrant an appeal from the decision of the immigrant inspector before entry into the United States. It did not seem to be the wish of Congress to deny that appeal by placing the exclusion power in the hands of the consuls on the other side.

Mr. ELSTON. If the passport official who passes on the applications for entry into the United States has a limited range of discretion with regard to denying or approving the application, does it not largely lodge in his discretion only as to how far he shall go, and is not that a decision, finally, as most discretionary matters are, and to that extent the passport officer has unlimited power to refuse or approve—to all intents and purposes he can apply the rule in any way he may please—and if that is so, I think it is just as well to let it lie if there is no appeal to any other authority.

Mr. ROGERS. There is an appeal to the Department of State; and, in the second place, that man, if he complies with his oath of office, and if he applies the law as you or I would say it should be applied—

Mr. ELSTON (interposing). The language is rather broad, and it looks to me as if they are lodged with very large power. If the language is broad enough, and does what we presume it does—includes the matter of character where it touches the welfare of the United States—that may be interpreted into a very large power; that is my observation.

Mr. ROGERS. That is exactly what we can find out this morning.

Mr. CARR. The State Department's attitude has been this: When the President laid before Congress the question of continuing this visé system for a year, he expressly referred in his message to the exclusion of the class of persons who would be dangerous to the institutions of the United States, and it was quite clear from that message and from the Secretary of State's letter accompanying it that it was not the purpose to usurp the powers of the immigration officers or to extend this consular function to the exclusion of the ordinary immigrant class for ordinary immigration reasons. That was discussed at considerable length before the Committee on Foreign Affairs, and when the Committee on Foreign Affairs made its report to Congress it expressly stated that this power would not be used by the State Department to limit or restrict or reduce immigration. I think I am right about that.

Mr. ROGERS. Mr. Lansing made it very clear when he testified before the committee.

Mr. CARR. So the State Department has felt in not permitting the consuls to go beyond that one class that it was complying with the wishes of Congress and interpreting the law in accordance with the spirit of it.

Mr. ELSTON. You have been applying, more or less, your definition of what the powers are?

Mr. CARR. Yes, sir; quite so.

Mr. SMALL. I agree with Mr. Rogers that the consuls should be vested with some authority, enlarging the present limitation imposed

upon them. Of course, that authority ought to be specifically granted so as to limit the discretion as much as possible and thereby avoid abuse. Certainly, the viséing of a passport of an alien proposing to come to the United States who is disqualified under our immigration laws and will be sent back after he arrives here imposes an undue burden on our immigration officials on this side as well as inconvenience to the alien himself. Unless the consul is clothed with some appropriate authority expressed in such terms as will limit the amount of discretion as much as possible and unless he is directed to secure certain concrete evidence, I can not see any decided benefit from the examination by the consul. His action in granting or refusing a visé under the present law is that a man must be notoriously unfit and dangerous to our institutions before a consul can intelligently exclude him under the present law. So, if the chairman can devise a plan by which the authority of the consul can be enlarged in a way which would not result in abuse, it seems to me it would be a very wise provision.

Mr. ROGERS. I should like to read a sentence from the testimony of Mr. John Stanley Moore, who, I think, was your predecessor as chief of the visé section.

Mr. McBRIDE. Yes, sir.

Mr. ROGERS. He testified before the Committee on Foreign Affairs on February 4 of last year and said:

The duty of the consul to refuse the visé at the present time to a man who has bolshevik or disturbing tendencies, and as such would be a menace to the United States. It is not the duty of the consul to refuse visé, because the man falls within one of the excludable clauses under the immigration law. Let me cite an instance. If you are a consul at Naples and I am an illiterate Italian, I get a passport from the Italian Government, and I take it to you, as the American consul, for visé. You know that I am illiterate. You say to me, "You can not enter the United States; you are illiterate." But I at once say, "That is none of your business whether I am illiterate or not, if I am a reputable citizen in my community. I demand a visé." And you must give it to me.

It seems to me that is the worst practice that can be imagined, and I look at it as very bad legislation, not merely from the standpoint of the United States but from the standpoint of the alien himself, because time after time these men will come to the United States with the visé from an officer of the United States to enter and when they get to the port of New York or some other port they find that they can not come in at all.

Mr. ELSTON. It would seem to me that the immigration and passport services are operating at cross purposes?

Mr. ROGERS. They are not operating at cross purposes, except as the law requires them to operate at cross purposes. Is not that substantially true?

Mr. McBRIDE. Yes; I think it is the law.

Mr. ELSTON. They should be consolidated in some way.

Mr. SMALL. Does the present law require the consul to do that?

Mr. CARR. The visé control is exercised under this act of May 22, 1918, which has to do really with protecting the United States in time of war from dangerous aliens.

Mr. SMALL. Does the statute require the consul to investigate and require evidence?

Mr. CARR. The regulations do require investigation, and the regulation under which this visé control is exercised adopts as the definition of the kind of persons that the consul is authorized to refuse a

visé to the class of people who were described in the act of October 6, 1918, aliens generally who are in favor of the overthrow of government by violence and the overthrow of the Government of the United States, and so forth. That class seemed to be clearly the class Congress had in mind when passing the visé control legislation.

Mr. SMALL. Prior to the act of May 22, 1918, there was no restriction placed upon the consul in granting a visé?

Mr. CARR. No; as a matter of fact, and except for some regulations which were issued by the President based upon the trading with the enemy legislation after the beginning of the war there had been no such visé regulations.

Mr. SMALL. There were none at all prior to the World War?

Mr. CARR. No, sir.

Mr. ROGERS. Mr. Carr, this item in the current law reads:

For expenses of regulating entry into the United States, in accordance with the provisions of the act approved May 22, 1918, and Public Act No. 79 of the Sixty-sixth Congress, when the latter act shall have become effective—

So much money.

In addition to the remaining \$150,000 of the sum appropriated by section 4 of said Public Act No. 79.

The said section 4 of Public Act No. 79 provides that in order to carry out the purposes the sum of \$600,000 is hereby appropriated.

I have forgotten, if I ever knew, why, in view of the fact that this act has never become effective under its terms, we ever managed to assume that the \$600,000 or any part of it was usable.

Mr. LAY. There was a supplemental joint resolution making \$450,000 of the \$600,000 available under the act of May 22, 1918, until the end of the fiscal year.

Mr. ROGERS. I believe I remember that now. Assuming that as true, you certainly have not been very happy in the phrasing of the item.

Mr. CARR. There is a little defect in the language.

Mr. ROGERS. I suggest that, perhaps, you and Mr. Lay better prepare an amendment, because this language is still present in the act for the ensuing year.

Mr. CARR. Under this language the only way that the \$150,000 would become available would be by a rather forced construction by the accounting officers of what they understood the wish of Congress to be.

Mr. ROGERS. Yes. This is bad legislation. It is bad in the existing law and it is bad in the proposed new law.

Mr. CARR. Public resolution approved December 24, 1919, provides:

That so much of the sum of \$600,000 appropriated by section 4 of Public Act No. 79 of the Sixty-sixth Congress, entitled "An act to regulate further the entry of aliens into the United States," as may be necessary is hereby made immediately available for expenses of regulating entry into the United States, in accordance with the provisions of the act approved May 22, 1918.

That is Senate joint resolution No. 131 and public resolution No. 27—Sixty-sixth Congress.

Mr. SMALL. Approved when?

Mr. CARR. December 24, 1919.

Mr. ROGERS. You will prepare an amendment, Mr. Carr?

Mr. CARR. Yes, sir.

Mr. ROGERS. Can you give us a setting of the particular situation in Warsaw, give us general statistics of the visé conditions?

Mr. McBRIDE. There is one thing I should like to say in reference to the amount of time our career consulate officers are taking with this function. As Mr. Carr said, there are 358 employees on the visé fund, but these are only clerks and ex-career vice consuls. I calculate that 60 per cent of the whole service was occupied on visé work and that only 40 per cent of their time was taken to do the ordinary consular functions, a very important commercial work which we should be doing now. In the offices where we are doing a lot of commercial work our staff ranges from 5 to 13 or 14 persons. In many offices we have 10,000 visés a month. For instance, in Naples we have had a staff of 13 and they handle 10,000 visé cases a month. In Warsaw we have a staff of about 20 persons and they are handling from 500 to 700 cases daily. That means that they must examine very carefully all the documents of the applicants and must talk to them and give them a thorough examination.

APPLICANTS FOR VISÉ OF PASSPORTS.

Mr. ROGERS. Have you assembled the total number of applications for visé for the last calendar year or for the last fiscal year?

Mr. McBRIDE. Yes, sir.

Mr. ROGERS. What is the total number?

Mr. McBRIDE. During the last fiscal year we actually viséed 544,000 passports; that is in round numbers, alien, and this year we are faced with the problem of viséing between 800,000 and 1,000,000.

Mr. ROGERS. Five hundred and forty-four thousand for the fiscal year 1920?

Mr. McBRIDE. Yes, sir.

Mr. ROGERS. How many were refused?

Mr. McBRIDE. I do not know about that, but I think about 2 per cent.

Mr. CARR. I can give you an idea of the refusals from the statistics which I have here, based upon some of the typical offices during the quarters ending March 31, June 30, and September 30, and the estimates for the quarters ending December 31, March 31, and June 30. For instance, at Warsaw the visés granted during the period up to September 30 were 24,107. I have not the number of refusals, but the number of employees engaged was 15.

Mr. ROGERS. I am very anxious, in the consideration of this question, to get some idea of the usefulness in debarring the undesirables. Can you give us some facts as to the refusals at some place?

Mr. CARR. At Belgrade, for instance, there were 7,025 granted and 238 refusals. For the same period at Vigo, Spain, there were 3,174 granted and 33 refused. There is a very clear reason for that, because, as I understand, the immigrants coming from a place like Vigo, Spain, are likely to be of a very good class, and therefore less reason for refusal.

Mr. ROGERS. At Belgrade the number of refusals was about 3 per cent. That would be a place at which you would expect to have quite a proportion of dangerous gentlemen who wanted to come to the United States?

Mr. CARR. Yes, sir; quite so. At Bilbao, Spain, 1,868 were granted and 111 refused in the same period.

Mr. ROGERS. That is a big percentage?

Mr. CARR. Yes, sir; but local reasons would explain in all of these cases the difference in refusals.

Mr. ROGERS. Mr. McBride, have you not a table showing all those figures which you could put in the record?

Mr. McBRIDE. Yes, sir.

Mr. ROGERS. I should like to get a world-wide compilation that would show at least the visés granted and the visés refused?

Mr. McBRIDE. I shall prepare that. The table worked up shows the percentage of refusals is a little less than 2 per cent in all Europe. Just at present it is very much greater on account of the various serious passport frauds in Poland and Germany.

Mr. ROGERS. In Germany and Poland are passports being granted?

WITHHOLDING OF PASSPORTS BY ITALIAN GOVERNMENT.

Mr. CARR. Fraudulent ones have been printed and circulated by the hundreds and have even been falsely viséed.

Mr. ROGERS. I noticed in the press in the last few days that the Italian Government was proposing to withhold passports from immigrants from entering into the United States. Has the State Department been negotiating for some such arrangement?

Mr. CARR. No. The State Department has been notified voluntarily by the Italian Government that it has suspended the issue of passports to Italian subjects emigrating to the United States and will refrain from issuing such passports until informed as to the classes of immigrants desired in this country. I submit for the information of the committee a copy of the embassy's note:

REGIA AMBASCIATA D'ITALIA,
Washington, D. C., December 17, 1920.

The chargé d'affaires of Italy presents his compliments to his excellency the Acting Secretary of State and has the honor to inform him that, according to a communication just received from the ministry of foreign affairs, the Royal Italian Government has suspended the issue of passports to subjects emigrating to the United States and will refrain from issuing such passports until informed as to the classes of immigrants desired in this country.

Mr. ROGERS. Is the barrier complete at this moment?

Mr. CARR. I understand it is not. I understand that means only that the Italian Government henceforth is to refuse passports. Mr. McBride can tell you something about that.

Mr. McBRIDE. If the Italian Government should suspend the granting of passports to-day, there still remain in Italy enough persons who have had their passports already viséed at the American consulates to fill all the ships plying out of the Italian ports for six months, and in addition enough people have been granted passports by the Italian Government, which will be viséed, that will fill the ships for another two months.

Mr. ROGERS. What do you estimate the capacity of the ships for six months?

Mr. McBRIDE. At Naples we went on one of the ships in December and found the immigrant passports were all taken out six months prior to the time that we were on the ship.

Mr. ROGERS. On that point, you do not know the total number of passport holders in Italy at this moment?

Mr. McBRIDE. Not the exact number. I could make a rough calculation of it and I could easily find out the voyage of the ship.

Mr. SMALL. You are referring to ships sailing from Italian ports?

Mr. McBRIDE. Yes, sir; there are just two or three lines.

Mr. ROGERS. It is your understanding that this Italian regulation will have application only to those who wish hereafter to apply for passports?

Mr. McBRIDE. I think that is the actual fact.

Mr. CARR. The date when the suspension was to take effect was not mentioned in the memorandum, but it is clearly stated that it has already taken effect.

Mr. ROGERS. Mr. Carr, is it your impression that the regulation resulted from diplomatic negotiations inaugurated by the United States?

Mr. CARR. No, sir.

Mr. ROGERS. It was a voluntary suggestion from the Italian Government?

Mr. CARR. Yes, sir.

Mr. ROGERS. Mr. Carr, Mr. Small has suggested that it might be well to have in the record the proclamation of the President under the act of May 22, 1918, and the regulations issued under that proclamation. Would they be very voluminous?

Mr. CARR. They are rather voluminous; yes, sir. I am quite sure that if you had those regulations you would want also the present regulations, which to a certain extent supersede them.

Mr. ROGERS. Have you them in pamphlet form?

Mr. CARR. Yes, sir.

Mr. ROGERS. I think it will answer our purpose if you will bring down a few copies of that pamphlet for the use of the committee.

Mr. SMALL. Yes; that will be sufficient.

Mr. ROGERS. Referring again to the specific language of this item in the estimates, as I stated a few moments ago, we assume that the act approved May 22, 1918, will have gone off the books within three or four months and that public act No. 79 will never go on the books?

Mr. CARR. That is quite right.

Mr. ROGERS. When the new fiscal year begins it would seem improbable that there would be any law to enforce. If this committee is going to recommend a continuation of the passport act, of course, as I said, it will be subject to a point of order, but I think that we ought to have before us the appropriate language which will raise the point and enable the committee to decide whether it shall be left in or left out.

Mr. CARR. This language is very loose and misleading.

Mr. ROGERS. In connection with the other change which is to be corrected in public act No. 79, that I spoke of before, will you revamp the whole paragraph?

Mr. CARR. Yes, sir.

Mr. ELSTON. I think it might be well to have testimony here with regard to the distribution of these 300 passport agents, in order that the committee, if it should decide to continue the appropriation, may know about where it should concentrate any remainder which was left; and if we reduce the appropriation that is about the only way that we can make a proportionate cut—that is, if we make a cut instead of an absolute elimination. I think it might be well to have some idea of the first line of defense, and so on.

Mr. ROGERS. Mr. McBride, have you a table showing the make-up of the 373?

Mr. McBRIDE. The visé passports are secured from the consuls.

NUMBER AND LOCATION OF EMPLOYEES AND SALARIES.

Mr. ROGERS. I understand; but we have 373 special passport employees?

Mr. McBRIDE. Yes, sir.

Mr. ROGERS. Where are they located, geographically? I think it would be well for you to prepare a table showing the geographical make-up of the 373 employees. Perhaps you can either submit it or send it through Mr. Carr when he comes again.

Mr. McBRIDE. Yes, sir.

Mr. ELSTON. And we should know the modified program that the State Department wants to make in case the immigration law pending in the Senate is passed.

Mr. ROGERS. We must consider that, of course. It is going to be extremely difficult, in my judgment, for this subcommittee to recommend legislation when we do not know what the general background of the legislation will be.

Mr. McBride, in connection with the same table, will you indicate the amount of the salaries paid to Americans out of that fund?

Mr. McBRIDE. Yes, sir. Out of the 373 there are 119 Americans, and they are receiving an average salary of \$1,762.85.

(The following tables were subsequently submitted to the committee:)

Salaries and location of persons employed especially for passport visé work.

SALARY SCALE.

Compensation.	(C) American.		(D) Foreigners.	
	Number.	Total.	Number.	Total.
\$3,000.....	3	\$9,000		
\$2,600.....	1	2,600		
\$2,500.....	5	12,500		
\$2,400.....	6	14,400	1	\$2,400
\$2,300.....	1	2,300		
\$2,200.....	3	6,600		
\$2,100.....	1	2,100		
\$2,000.....	34	68,000		
\$1,800.....	31	55,800		
\$1,650.....			1	\$1,650
\$1,600.....	4	6,400		
\$1,500.....	4	6,000		
\$1,400.....	1	1,400		
\$1,200.....	6	7,200		
\$1,120.....	1	1,120		
\$1,100.....	1	1,100		
\$1,000.....	1	1,000		
\$900-999.....	9	8,460	56	52,380
\$800-899.....	1	840	15	12,160
\$700-799.....	1	720	25	17,940
\$600-699.....	1	600	38	23,352
\$500-599.....	1	500	17	8,652
\$400-499.....	3	1,140	101	32,084
	119	209,780	254	150,618

¹ Investigator.

² Interpreter.

SUMMARY.

Total number of employees.....	373
American.....	119
Foreign.....	254
Average salary of Americans.....	\$1,762.85
Average salary of foreigners.....	592.98

Salaries and location of persons employed especially for passport visé work—
Continued.

GEOGRAPHICAL BREAK-UP, BY CONSULATES.

Consulate.	Ameri- cans.	For- eigners.	Total.	Consulate.	Ameri- cans.	For- eigners.	Total.
Aleppo.....		1	1	Lucerne.....		1	1
Alexandria.....		1	1	Madrid.....		1	1
Amsterdam.....	1	2	3	Malaga.....		2	2
Antilla.....		1	1	Malmö.....		1	1
Antwerp.....	1	3	4	Malta.....		1	1
Athens.....	2	6	8	Manchester.....	1		1
Barcelona.....	1	2	3	Marseille.....	2	1	3
Beirut.....	1	3	4	Matamoros.....	1		1
Belfast.....	1	2	3	Mexico City.....	1		1
Belgrade.....	2	3	5	Milan.....		2	2
Bergen.....		1	1	Nancy.....	1	1	2
Berlin.....	4	9	13	Naples.....	3	13	16
Berne.....		1	1	Newcastle-on-Tyne.....	1	1	2
Bilbao.....	1	2	3	Nogales.....	1		1
Birmingham.....	1	1	2	Nottingham.....	1		1
Bordeaux.....		1	1	Nuevo Laredo.....	1		1
Bradford.....		1	1	Oporto.....	1		1
Bristol.....		1	1	Palermo.....	3	3	6
Brussels.....	1	4	5	Paris.....	10	22	32
Bucharest.....	3	6	9	Patras.....	1	5	6
Budapest.....	2	2	4	Piedras Negras.....	1		1
Buenos Aires.....	1		1	Prague.....	5	9	14
Cardiff.....		1	1	Queenstown.....	1	2	3
Catania.....	2	5	7	Riga.....		2	2
Cherbourg.....		1	1	Rome.....	2	7	9
Christiania.....	3		3	Rotterdam.....	4	5	9
Ciudad Juarez.....	2		2	St. Michaels.....		1	1
Constantinople.....	2	1	3	Saloniki.....	1	1	2
Copenhagen.....	2	3	5	Santander.....		1	1
Coruna.....	1	1	2	Santiago de Cuba.....	1		1
Damascus.....		1	1	Seville.....		1	1
Dublin.....	2	2	4	Shanghai.....	3		3
Dundee.....		2	2	Smyrna.....		1	1
Edinburgh.....		1	1	Sofia.....		1	1
Florence.....		2	2	Southampton.....		1	1
Funchal.....		1	1	Stavanger.....	1		1
Geneva.....		1	1	Stockholm.....	1	2	3
Genoa.....	1	1	2	Swansea.....		1	1
Ghent.....		2	2	Sydney, Australia.....		2	2
Glasgow.....	1	2	3	Toronto.....		1	1
Goteborg.....	1	2	3	Trieste.....	1	3	4
Habana.....	3		3	Tronhjem.....	1		1
Havre.....	1	3	4	Turin.....	2	1	3
Helsingfors.....	1	2	3	Valencia.....	1	5	6
Hongkong.....	1	5	6	Venice.....	1	3	4
Hull.....		1	1	Vienna.....	2	6	8
Iquique.....		1	1	Viborg.....		1	1
Jerusalem.....		1	1	Vigo.....	2	1	3
Kingston, Jamaica.....		1	1	Vladivostok.....		2	2
Kobe.....	1		1	Warsaw.....	5	21	26
La Guaira.....		1	1	Wellington.....		2	2
Leeds.....		1	1	Winnipeg.....	1		1
Leghorn.....	1	2	3	Yokohama.....	1	1	2
Lille.....		1	1	Zagreb.....	1	7	8
Lisbon.....	1	2	3	Zurich.....	1	1	2
Liverpool.....		1	1				
London.....	4	4	8	Total.....	119	254	373

GEOGRAPHICAL BREAK-UP, BY COUNTRIES.

Country.	Ameri- cans.	For- eigners.	Total.	Total al- lotment.
Argentina.....	1		1	\$1,500
Belgium.....	2	9	11	8,130
Bulgaria.....		1	1	720
Chile.....		1	1	900
China (including Hongkong).....	4	5	9	10,080
Cuba.....	4	1	5	8,080
Czechoslovakia.....	5	9	14	12,800
Denmark.....	2	3	5	7,660
Finland.....	1	3	4	4,820
France.....	14	30	44	36,580

Salaries and location of persons employed especially for passport visé work—
Continued.

Country.	Ameri- cans.	For- eigners.	Total.	Total al- lotment.
Great Britain:				
British Isles.....	18	25	38	\$39,872
Canada.....	1	1	2	1,800
Australasia.....		4	4	2,350
Kingston, Jamaica.....		1	1	960
Malta.....		1	1	500
Greece.....	4	12	16	13,516
Italy.....	15	39	54	47,600
Japan.....	2	1	3	4,900
Mexico.....	7		7	9,280
Netherlands.....	5	7	12	12,940
Norway.....	5	1	6	8,860
Poland.....	5	21	26	15,000
Portugal.....	2	4	6	5,820
Roumania.....	3	6	9	10,560
Russia.....		4	4	2,280
Kingdom of Serbs, Croats, and Slovenes.....	3	10	13	15,160
Spain.....	6	16	22	17,800
Sweden.....	2	5	7	8,800
Switzerland.....	1	4	5	5,080
Venezuela.....		1	1	960
Berlin.....	4	9	13	10,000
Budapest.....	2	2	4	6,720
Vienna.....	2	6	8	7,480
Trieste.....	1	3	4	4,160
Alexandria.....		1	1	960
Constantinople and other offices formerly in Turkey.....	3	8	11	15,990
Total.....				360,398

GEOGRAPHICAL DIVISIONS.

Country.	Ameri- cans.	For- eigners.	Total.	Total al- lotment.
Western Europe (British Isles, Belgium, France, Spain, Swit- zerland, Netherlands, Portugal, and Germany.....	47	104	151	\$136,022
Scandinavia and northeastern Europe (Norway, Sweden, Den- mark, Finland, and Riga).....	10	14	24	31,460
Southeastern Europe and Slavic States (Poland; Czechoslova- kia; Kingdom of Serbs, Croats, and Slovenes; Bulgaria; Rou- mania; Budapest; and Vienna).....	20	55	75	68,440
Mediterranean countries (Constantinople and other offices for- merly in Turkey; Greece, Italy, Trieste, Alexandria, and Malta).....	23	64	87	82,726
Far East (China, Japan, Australasia, and Vladivostok).....	6	12	18	18,290
South America (Argentina, Chile, and Venezuela).....	1	2	3	3,360
Cuba and West Indies (Jamaica).....	4	2	6	9,020
North America (Mexico and Canada).....	8	1	9	11,080
Total.....	119	254	373	360,398

Mr. ROGERS. Do I understand, Mr. McBride, that there are 12 special passport employees at Berlin and that 9 of them are Germans?

Mr. McBRIDE. I do not know the number of Germans.

Mr. ROGERS. But 9 of them are foreigners?

Mr. McBRIDE. Nine of them are foreigners.

Mr. ROGERS. And your guess would be that most or all of them are Germans?

Mr. McBRIDE. Yes; I should think at least half of them are Germans—doormen and clerks of that type.

Mr. ROGERS. You can not have so many doormen?

Mr. McBRIDE. We need a good many doormen with crowds like that to handle.

Mr. ROGERS. Do you think that the Germans are probably passing upon the question of whether the visé shall be granted or refused in a given case?

Mr. McBRIDE. No, sir.

Mr. ELSTON. No foreigner?

Mr. McBRIDE. No; no foreigner. Every case is reviewed by a career consul—a man who receives no compensation from the visé appropriation at all.

Mr. ROGERS. That one man is not the only one who supervises it?

Mr. McBRIDE. He does not supervise it; he is only a clerk. It is passed to the career officer stationed at Berlin.

Mr. ROGERS. But at the same time these 12 special employees work up the facts, etc., and they are submitted to the man who actually reaches the decision?

Mr. McBRIDE. They make copies of the applications on the typewriter.

Mr. ROGERS. What I am trying to get at is whether there is a reasonable opportunity for the fraudulent granting of a visé through the manipulation of these 11 native employees.

Mr. McBRIDE. I do not think so.

Mr. ELSTON. Is it not true that practically all of the foreign employees are engaged in merely mathematical and clerical work?

Mr. McBRIDE. Yes, sir.

Mr. ELSTON. That which involves the labor of getting up the records and preparing the work?

Mr. McBRIDE. As a rule they take the application and look over the substantiating documents of the applicant to see they are all there and to see that the passport is in order, and then the application, with all these substantiating documents, is taken to the office of the consul and he goes over the application and puts all these questions again to the applicant and goes through his substantiating documents.

Mr. ROGERS. In the case of a person who desires to come at this moment from Germany, a German subject, I mean, he gets a passport from Germany, but he has no standing at the American consul's office nor any right to receive a visé, has he?

Mr. CARR. A German?

Mr. ROGERS. A German who wants to come to the United States. he has his passport, then does he go to the consul's office to get him to visé it.

Mr. McBRIDE. It depends upon the reason for his voyage. If he is coming on important commercial business in which the United States would benefit, he would probably be allowed to come, after his business had been thoroughly looked into.

Mr. ROGERS. The United States and Germany are at war. How can that be done, even if the interest involved is extensive and even if the reason is entirely a good one?

Mr. CARR. It is not done in Germany by the consul. We have none in Germany, but the visé may be granted by the American commission.

Mr. ROGERS. Under what authority is that possible?

Mr. CARR. For various reasons, including the promotion of trade and the protection of American interests through the furnishing of

accurate information in regard to Germany, we have followed the practice of other governments and have had a commissioner in Berlin for some time. Only certain Germans who might be useful to the United States are permitted to come here. The commissioner, being the only agent of the United States who can give anything in the nature of a visé, is permitted to do it. Permission to come to the United States is not granted to any German who bore arms in the enemy armies during the war, and to no others without the authorization of the United States.

Mr. ROGERS. I understand that, but it is a revelation to me that an enemy's subject is allowed to come to the United States under the direct sanction of an American diplomatic or consular officer. How long has that been going on?

Mr. CARR. There has been a gradual relaxation of those restrictions for six months.

Mr. ROGERS. What you are doing, I suppose, is to recognize the state of facts and to disregard the state of the law?

Mr. CARR. For instance, we are letting German business men come over here where the purpose of the business would be an advantage to the United States, and we are letting German individuals come over here who want to join a part of their family in the United States or who are dependent on relatives in the United States.

VISÉS GRANTED TO GERMAN SUBJECTS.

Mr. ROGERS. Have you any figures available which will indicate the number of visés granted to German subjects during the last fiscal year?

Mr. CARR. I think we have. We have only admitted during the period that I mentioned about 1,658.

Mr. ROGERS. In connection with the table which Mr. McBride is going to furnish the committee, I wish you would have prepared a table showing by enemy countries the number of applicants for visés, the number of visés granted, and the number of visés refused.

Mr. CARR. Yes, sir.

Mr. ROGERS. Germany and Austria.

Mr. CARR. With respect to Austria we are letting almost everyone come who is not excludable under the regulations and who has not served as an officer in the enemy armies.

(The following table was later submitted:)

	Alien visés granted, quarter ended—			Alien visés refused, quarter ended—		
	Mar. 31, 1920.	June 30, 1920.	Sept. 30, 1920.	Mar. 31, 1920.	June 30, 1920.	Sept. 30, 1920.
Austria.....	39	286	490	3	7	149
Belgium.....	1,637	1,972	2,101	246	250	416
Bulgaria.....	8	22	24	1	2	19
Czechoslovakia.....	902	3,161	9,669	37	24	24
Danzig.....		10	1,812		5	62
Denmark.....	1,334	1,330	2,138	12	27	54
France.....	2,962	4,015	4,869	220	218	326
Germany.....						
Great Britain and Ireland.....	11,839	24,907	27,228	45	140	349
Greece.....	4,860	7,823	7,074	24	44	172
Italy.....	55,208	76,493	61,060	714	497	320
Jugo-Slavia.....			1,638			38
Malta.....	1,230	1,620	814			4
Netherlands.....	2,603	3,177	3,512	208	133	64
Norway.....	1,501	2,016	2,436	16	6	6
Poland.....	995	8,252	14,860			6
Portugal.....	3,587	3,932	4,093	6	7	4
Rumania.....	355	1,717	4,099			
Russia.....	5	87	351			15
Serbia.....	1,181	2,500	3,344	42	125	71
Spain.....	5,787	10,189	9,955	99	87	48
Sweden.....	1,603	2,508	3,420	44	21	16
Switzerland.....	1,436	1,829	2,389	33	35	19
Turkey.....	796	2,582	2,745	1	10	12
Algeria.....	12	24	13	2	4	
Total.....	104,860	160,451	170,154	1,053	1,642	2,194
Limoges, France.....	19	21	29			
Helsingfors, Finland.....	177	305	671	2	2	7
Berlin, Germany.....	10	518	1,130			574
Saloniki, Greece.....	323	500	591	7	15	5
Milan, Italy.....	946	2,110	1,819	67	84	32
Grand total.....	106,335	163,905	174,394	1,129	1,743	2,812

ADDITIONAL LEGISLATION NEEDED FOR PASSPORT EMPLOYEES.

Mr. ELSTON. If the passport employees out of this fund are not given any authority to deny passports, but are employed merely on the prewar function of viséing passports, which is one of the current activities of the office, why would you need all of this fund by reason of the great increase in applications?

Mr. CARR. I do not quite catch your question.

Mr. ELSTON. Mr. McBride has just testified that there is a tremendous number of applicants besieging the consular offices in foreign countries?

Mr. CARR. Yes, sir.

Mr. ELSTON. I suppose it would be your duty to examine them and to issue viséed passports?

Mr. CARR. Yes, sir. It is a question of whether or not these regulations remain in force.

Mr. ELSTON. You did not do this kind of work before the war?

Mr. CARR. No, sir.

Mr. ELSTON. I think it is a very great question, if you did not do it before the war, whether this work is worth continuing.

Mr. CARR. If we should continue this, some additional legislation would be necessary to carry it beyond the state of peace.

Mr. ELSTON. I understand that.

Mr. CARR. If the additional legislation was supplied, and we continued doing what we are doing at present, I am perfectly sure that in order to do it in any sort of acceptable way we should need every dollar that we have estimated for—that is to say, the full \$1,000,000 for this visé work alone—and I am not sure that would be adequate to relieve the officers and release time sufficient to perform their regular consular functions.

Mr. ELSTON. Are you prepared at this time to make any recommendation as to its continuance or discontinuance, based on your experience?

Mr. CARR. I have been in the past against the granting of immigrant-exclusion functions to the consuls, because I have felt that with that duty our consuls, instead of efficiently performing their regular functions, which we all admit are useful and necessary, would become simply immigration officers and the consulates would be converted into immigration stations. I have also felt that we would inevitably encounter objection from other Governments. I am not at all sure that if we require our consuls to perform the exclusion functions that we will not have to couple with that grant of authority power to open negotiations with other Governments for permission to conduct examinations of intending emigrants in foreign territory or exclude immigrants absolutely by law and then make regulations which consuls could execute which would permit such foreigners as are desired to come in under a consular visé. That is a very important matter; and, while I am not prepared to outline a comprehensive scheme of control, I do think the existing visé system should be extended and made permanent and that the consuls should have power to refuse visés to all persons who are clearly excludable under our immigration laws.

To do the work will require all the money for which we have estimated, and I am almost certain even more money than we have estimated for. But in that connection it is to be borne in mind that at the present rate of immigration we are going to put into the Treasury at the end of the year, as we estimate, from seven to eight million dollars, or a profit on the investment this year of \$6,600,000. I think I am perfectly safe in saying that. It is not a drain on the Treasury at all; it is a large source of revenue.

Mr. ROGERS. \$10 per visé?

Mr. CARR. Yes, sir.

Mr. SMALL. Mr. Chairman, in view of the revelations growing out of the war and during its continuance of the number of undesirable aliens in the United States, some of whom even have been naturalized, and in view of the large number of aliens now seeking admission, is it not a serious question whether we ought not to continue in some appropriate form some supervision by consuls of aliens seeking admission?

Mr. ROGERS. Of course, that is not strictly the function of this committee to decide, although it may be pertinent for us to decide it as far as we can.

Mr. SMALL. If we decide it to be appropriate, we might include a provision of that sort in the bill, subject, of course, to a point of order, with a view to giving some publicity and directing the attention of the legislative committee to it.

Mr. ROGERS. It is perfectly clear that the item as carried in the estimate is not a happy phrase, but we will correct that.

Am I to infer from what you have just said, Mr. Carr, that you would be opposed to the inclusion of the same language as the conferees on the diplomatic bill carried in the conference report last year?

Mr. CARR. No. What I meant to convey was this: Heretofore I have felt that this was hardly a consular function; that it was more of an immigration function, one that consuls ought not to be expected to exercise, in view of the complications into which it might lead them. The function of excluding immigrants under the immigration laws is, as you know, quite different in principle from the execution of existing regulations which are directed against enemy aliens and those who are regarded as politically undesirables; but a number of very careful observers and consular officers inclined to take the other view. I have confidence in their judgment. I am disposed to agree with their view, provided we exercise the function, if it should be decided to give it to the consuls, in such a way as not to involve us in complications with others.

Mr. SMALL. Mr. Chairman, if it should appear that we must clothe the consuls with this function or encounter difficulties from foreign Governments in having such functions discharged by any other officials of the Government—for instance, the officials of the Immigration Bureau—it appears that objection would be made to immigration officials acting within the countries from which these aliens come, and then, on the other hand, it would appear to be entirely an appropriate function for the consuls. There can be no objection to the presence of the consuls in these respective countries—the viséing of passports is an appropriate function and the conditions under which the visé shall be granted under the laws of the United States could scarcely be objected to by foreign countries, so if any limitation upon the departure of aliens from their respective countries to the United States is to be placed and enforced it would seem that the enforcement could only be accomplished through our consular officers.

Mr. ROGERS. I want to read into the record, so as to have it available, sections 3 and 4 of the conference report on the Diplomatic and Consular appropriation bill of 1921, found in House Report No. 895:

SEC. 3. The visé of a passport of an alien may, under regulations prescribed by the Secretary of State, be refused if the applicant would be dangerous to the public safety or obviously be liable to exclusion if allowed to present himself at a port of the United States for admission: *Provided*, That such applicant, if rejected by the officer of the United States to whom the application was originally made, may appeal to the Secretary of State: *And provided further*, That the issuance of a visé to an alien by a person duly authorized to issue such visé on behalf of the United States shall not relieve said alien or the steamship company transporting him from the operation of any provision of the laws of the United States.

SEC. 4. From and after the 1st day of June, 1920, it shall be unlawful for any alien, other than a seaman, to enter or attempt to enter the United States without a passport duly viséed by a person duly authorized by the Secretary of State to issue such visé: *Provided*, That this section shall not apply to nationals of Great Britain domiciled in the Dominion of Canada, Newfoundland, the Bermudas, or the Bahamas, or to nationals of France domiciled in St. Pierre and Miquelon, or to citizens of Cuba, Panama, or Mexico.

That language, Mr. Carr, as you will recall, was quite carefully worked out by the House and Senate conferees. I do not think

there is any question but what it would be acceptable to the Senate, and my impression is that it would be at least a fair question whether it would not be acceptable to the House at this time. I am making this suggestion so that you may consider it in reference to this particular paragraph.

Mr. CARR. I thank you very much.

Mr. ROGERS. Mr. McBride, we have discussed this morning the limited character of the discretion of the consul to whom a request for visé is made. I gather in the case of Germany, however, that the discretion goes far beyond what would be indicated as the usual discretion, because Mr. Carr has suggested that there a visé is granted only if the applicant coming to the United States would absolutely be of commercial use to the United States?

May I ask under what authority of law as opposed to authority of good sense the action of the German visé officers comes? Assuming that the United States officer placed in Germany can grant visés to people who will be commercially useful to the United States, why can not the Warsaw visé officer or the Naples visé officer refuse the visé on the ground that he would be of benefit or detriment to the United States? What is the difference between the Germany policy as indicated by Mr. Carr and the policy throughout the world?

Mr. McBRIDE. Of course, we are still in a state of war with Germany technically. Therefore every German application must be submitted to the State Department. If it is submitted, then the consular officer does not have any discretion to grant or refuse the visé.

Mr. CARR. That is true. Every German is excluded under the regulations. With the exception of a certain small number of classes of Germans, I think in every case the application of a German must be submitted to the State Department.

Mr. ROGERS. You do not think that the Germany policy is a departure from the law of May 22, 1918?

Mr. CARR. No. The law of May 22, 1918, gave the President the power to control aliens of all kinds coming into the United States. Now, under that law the President clearly has the power to admit Germans if he pleases. There is nothing in the law which would prohibit it. The regulations even during the war did not exclude hostile aliens who could present acceptable passports and who were otherwise not objectionable. The view taken by the department now is that, generally speaking, it is inadvisable for a German to come to this country at this time, but there may be certain Germans who have business relations with persons in the United States or with whom the United States is willing to have others engage in business for some reason that is advantageous, and that it would be disadvantageous to keep them out merely on the technicality that they are Germans. Moreover, there are certain people in Germany who are dependent upon relatives in the United States, and it seems to be a humane and proper course to let those people come over; but in every case the application is passed upon by the Department of State before the visé is authorized.

Mr. ROGERS. That does not modify the universality of the application of the law of May 22, 1918, with reference to enemy countries?

Mr. CARR. It does not modify the application of the law of May 22, 1918.

Mr. ROGERS. Take Belgrade, for example, where 238 visés were refused in a period of nine months. Is it your impression that every one of those refusals was based strictly on the law of May 22, 1918?

Mr. CARR. I should think very likely; yes, sir.

Mr. ROGERS. You do not think that the consuls are using common sense outside of the four corners of the law in refusing visés?

Mr. CARR. I do not think many of them are. I think the general sentiment of the consular service is that the men would like to exclude many of the people coming in large numbers that, in their opinion, do not improve the population of the United States, and that are better out of the United States than in it. They would like to see them excluded, but I think they generally feel that they have no power except as indicated by the regulations.

REFUSAL OF PASSPORTS.

Mr. ROGERS. Have you known of cases, Mr. McBride, where the consul simply said: "I can not stand for letting that fellow come to the United States; although he may not be dangerous to our institutions, I am not going to give him a visé"?

Mr. McBRIDE. Yes; I think there are cases of that kind.

Mr. ROGERS. How general is that?

Mr. McBRIDE. Not at all frequent. A consul does not refuse a case unless he has pretty good proof that the man is undesirable.

Mr. ROGERS. What kind of cases have you known of?

Mr. McBRIDE. There were one or two exceptions that I made myself.

Mr. ROGERS. In what sort of a case?

Mr. McBRIDE. There was a person associated with grafting in Warsaw that I simply refused a visé.

Mr. ROGERS. You could not prove it?

Mr. McBRIDE. I could not prove it, and there was no possible way of proving it.

Mr. ROGERS. I do not think you violated the law in that case. Suppose a leper came to you and asked you for a visé, would you give it to him?

Mr. McBRIDE. No; I should not.

Mr. ROGERS. You would be outside of the law if you did not?

Mr. McBRIDE. I know. Personally, I do not think that I should. Of course, under the regulations I would have to grant the visé if he insisted, but I should endeavor to warn him so strongly that he would not insist.

Mr. ELSTON. Tell him what his reception would be in the United States?

Mr. McBRIDE. Yes, sir.

Mr. CARR. Mr. Skinner, in London, you may be interested to know, operates the regulations in this way: When he finds an applicant who, in his judgment, is unqualified under the immigration law he warns him in writing, and if the man insists upon a visé he asks him to bring that warning back to him with his signature showing that he has been warned that he will likely be excluded, and the signature of the steamship company showing that it has been warned. Few persons ever return the written warnings duly signed.

Mr. ROGERS. I had supposed that was the general practice. Mr. Moore testified in the case which I mentioned:

I would qualify that by saying that it is the privilege of the consul to state on the man's passport or application, "Applicant informed he is liable to be excluded from the United States."

Mr. CARR. The notification that the warning has been given is done now, not in writing, but by certain symbols.

Mr. ROGERS. From what he said at that time, I understood that it was a stamp that was affixed to the passport?

Mr. CARR. The foreign Governments objected to stamping the notification on the passports, so we resorted to a method which is not objectionable.

Mr. ROGERS. If the foreign Government objected to that, I think they would object all the more to what we proposed in the conference report.

Mr. CARR. In respect to this particular thing a Government, the name of which I prefer not to give, objected to the stamp on the passports of its nationals. They said that they did not care whether or not we refused visés, but they did object to our granting the visé and stamping the passport with a statement that the holder was excludable. They said, "We do not object if you refuse for the reasons you say that they will probably be excluded; that is perfectly satisfactory to us, but we do not want to have it stamped on the passport."

Mr. ROGERS. From my viewpoint that subterfuge of the stamp illustrates the folly of this present arrangement. It is giving something with one hand and taking it back with the other.

Mr. CARR. It is just not marshaling the forces of the Government.

Mr. ELSTON. That is it exactly.

Mr. ROGERS. Have you anything more to add, Mr. McBride? I do not know whether you finished your statement?

Mr. McBRIDE. The result of my investigations in Europe shows that control is being very well done by our consuls abroad, and that control is really effective. Nevertheless, only 2 per cent were actually refused, because of the fact that the control is known generally and there are thousands of people who otherwise would come to the United States who are not even attempting to obtain the visé now.

Mr. ROGERS. You think that the system is worth continuing as it is?

Mr. McBRIDE. I think so, if the officers were properly housed and had adequate staffs in order to carry on the business without so much extra work.

Mr. ROGERS. Do you think that the system would be still more worth continuing if the consuls had the authority of law for refusing the visé to excludable immigrants?

Mr. McBRIDE. Yes, sir; I think so.

Mr. ROGERS. You approve of some such change in the law as that?

Mr. McBRIDE. Yes, sir.

Mr. ROGERS. I understand that on the whole you have come to approve it also, Mr. Carr?

Mr. CARR. Yes, sir.

Mr. McBRIDE. I found that, after investigating most of the large visé offices abroad, that we required just twice as many clerks as we

have now. That would mean an expenditure of \$800,000 next year for clerks, \$230,000 for special investigators who would be sent out to investigate the suspicious passports visé applicants, and \$80,000 for separate quarters in cities where the number of visés exceed 1,000 per month. That means a total of \$1,110,000, without having taken into consideration the question of furniture.

Mr. ROGERS. Will you have any unexpended balance?

Mr. McBRIDE. This year?

Mr. ROGERS. Yes.

Mr. McBRIDE. It will be very small.

Mr. CARR. I do not think we will have any, Mr. Rogers, when we get to the end of the year, for the reason that we are already making expenditures up to the limit of the appropriation.

Mr. McBRIDE. You see, we are dealing now with a million persons whereas under the last appropriation we were dealing with less than 200,000. The work has increased five times.

Mr. ROGERS. Of course, if this example of Italy should be followed by other countries, it would almost automatically permit a reduction in the visé problem, from the United States standpoint.

Mr. CARR. To some extent, perhaps, but there will remain a great deal to do in regard to aliens who are not immigrants. It should be remembered that nearly one-third of the aliens who came to the United States last year were of the nonimmigrant class.

Mr. McBRIDE. On the other hand, if through the visé work the Consular Service was asked to carry out the provisions of the bill on immigration which passed Congress recently, every applicant instead of taking five minutes of our time as he does now, would take half an hour.

Mr. CARR. You are speaking of the Johnson bill which passed the House?

Mr. McBRIDE. Yes. It would be very difficult for us to pass on the question of blood relationship for persons coming from eastern Europe, where it is very difficult for them to get proper documents, where there are no civil records, and it is very difficult for them to produce marriage certificates.

Mr. CARR. Besides, from the Warsaw region and the eastern European region it would not, as I understand it, reduce the number of immigrants, because the immigrants coming from there now are claimed to be within the classes that are admitted under the Johnson bill. They are relatives, in other words.

Mr. ROGERS. Well, I was assuming that the example of Italy might be followed, for example, by Poland. As far as that particular phase of the work is concerned, that would mean a very decided reduction in your problem, would it not?

Mr. CARR. Yes; it would mean a large reduction.

Mr. ROGERS. Do you have difficulty in getting qualified Americans to go out for the work?

Mr. CARR. Yes; a great deal of difficulty.

Mr. ROGERS. What is the salary range?

Mr. CARR. The salary range for Americans sent from here is from \$1,800 to \$3,000, depending upon the location and the character of work to be done.

METHOD OF APPOINTING EMPLOYEES—AVERAGE SALARIES.

Mr. ROGERS. How are those men appointed?

Mr. CARR. They are appointed in the ordinary way—I mean by selection.

Mr. ROGERS. Without examination?

Mr. CARR. Without examination.

Mr. ROGERS. Are they the sort of men who might later be vice consuls?

Mr. CARR. Some of them are, and some of them are of the ordinary clerk type; but we have been lately trying to get some special investigators. We have a few men who have had some experience in investigational work.

Mr. ROGERS. Both the salaries and the method of appointment are under regulation of the Secretary of State merely?

Mr. CARR. As a matter of fact, there is no general regulation. What we do is to try to select from the applicants we have those who seemingly possess the qualifications for that kind of work. That is the only thing considered. Each prospective employee is carefully investigated before he is accepted.

Mr. ROGERS. Should you send out more Americans, if you could get qualified Americans?

Mr. CARR. Yes; a considerable number. It is necessary, however, to employ a large number of foreigners.

Mr. ROGERS. What is the salary range for foreigners?

Mr. CARR. Five hundred and ninety-two dollars is the average.

Mr. ROGERS. That is helped by the rate of exchange, I suppose, very much.

Mr. McBRIDE. The average for Americans is \$1,762.

Mr. CARR. A great deal of the work is the kind of routine work which the average American will not perform. It is a peculiarity about the young American who wants to go abroad in the Consular Service, in an unclassified position, that he disdains the routine, the ordinary clerical work. He wants to be something very much bigger and more important, and this routine work can really best be performed by the foreign clerk.

Mr. McBRIDE. It is also very difficult to get an American who will sit at a desk and deal with the immigrant type all day long, because his office is crowded and it is very unhealthy.

Mr. ROGERS. Yes; I should think he would have all the diseases known to the pharmacopœia.

Mr. McBRIDE. He does have a good many of them. We have had a great many cases of illness in my office in Warsaw.

Mr. CARR. In the exercise of his function we might just as well admit that it is going to be necessary to employ a very large number of foreigners.

Mr. LAY. The average American has no language qualifications that would suit him for that sort of thing.

Mr. McBRIDE. At Warsaw we use several languages. The clerks who were taking applications had to be proficient in Polish, Russian, German, and Yiddish.

Mr. ROGERS. If you can get men for an average of \$671 that can do that sort of thing, I do not wonder that you have to take them.

* * * * *

PASSPORT CONTROL.

Mr. ROGERS. The newspapers, Mr. Carr, have been dealing recently with an apparent difference of opinion between the State Department and the Labor Department with reference to the admission of certain aliens who have not been provided with passports before they left their own country and consequently, of course, have not been provided with visés from the American officers. Do you know approximately the extent to which aliens have been admitted into the United States without passports and visés?

Mr. CARR. No; I do not know the extent to which they have been. I have had called to my attention in the last four or five days three or four cases where apparently they had been admitted without the State Department having waived the visé, without the State Department having been asked to waive the visé. Without examining the dossiers and knowing all the facts, my present understanding is that the admissions were granted by the Department of Labor.

Mr. ROGERS. Are those three or four cases all recent cases?

Mr. CARR. I think they are all recent cases.

Mr. ROGERS. Does the State Department in some cases waive the visé now?

Mr. CARR. Yes, sir. The usual procedure where an alien arrives at an American port without a visé is for the case to be brought up to the Labor Department and referred by it to the State Department.

Mr. McBRIDE. It is usually referred direct to the visé office by the Commissioner General of Immigration here in Washington.

Mr. CARR. Yes; by the Commissioner General of Immigration. The State Department considers the case and advises the Commissioner General of Immigration whether or not in its opinion the visé ought to be waived. In the cases to which you refer that, as I understand it, was not done. In a case that appeared in the newspapers last week my understanding is that the case was not referred formally through the Department of Labor prior to the time the man was released on parole.

Mr. ROGERS. In the cases which do go through the State Department channels is there ordinarily a passport unviséed or is there no passport at all?

Mr. CARR. Usually, as I understand it, there is no passport at all.

Mr. McBRIDE. There is no passport in the case of stowaways.

Mr. ROGERS. How many of those stowaway cases have been admitted into the United States, say, since the armistice, if you know?

Mr. McBRIDE. That is, in how many cases have we waived the visé regulations in favor of the stowaway?

Mr. ROGERS. Yes.

Mr. McBRIDE. I should say offhand only in one or two cases in which the Department of State has waived the visé regulations in favor of the stowaway, and it has refused to waive the visé regulations in dozens and probably hundreds of cases.

Mr. ROGERS. Are there any other cases besides the stowaway cases where a man is permitted to enter the United States in spite of the lack of or any irregularity in the passport or visé?

Mr. McBRIDE. Yes, sir.

Mr. ROGERS. What type of cases are those?

Mr. McBRIDE. There was one that came to my attention this morning. A British subject arrived in New York with his wife and three children. All of the three children were under 10 years of age, and through neglect, probably on the part of the British subject, the children did not appear upon the passport, and so they were held at Ellis Island and we were asked to waive the visé regulations in favor of the three children, and we did waive them.

Mr. ROGERS. Are there a good many cases of that kind, Mr. McBride?

Mr. McBRIDE. Not a large number; no, sir.

Mr. ROGERS. Are there a great many stowaway cases which you have refused to admit?

Mr. McBRIDE. A large number; yes, sir.

Mr. ROGERS. Now, why, out of a large number, are there only one or two that you find meritorious?

Mr. McBRIDE. I do not know the details at the present time, but I believe that one of them was a reservist, an Italian who had lived in this country for years and years and who had gone over to fight in the Italian army. He would have been entitled to have his passport viséd when he came back.

Mr. ROGERS. Under the law as it stands to-day and under the regulations promulgated under that law, has either the State Department or the Labor Department, or both together, the right to admit an alien without a passport?

Mr. CARR. The Secretary of State has. The President's proclamation of August 8, 1918, says that the Secretary of State is hereby authorized in his discretion to prescribe exceptions to these rules and regulations governing the entry into and departure from the United States of citizens and subjects of nations associated with the United States in the prosecution of the war.

Mr. ROGERS. Is there any similar provision which allows the Secretary of Labor to do the same thing?

Mr. CARR. No, sir. When this executive order was issued on August 8, 1918, it prescribed a system under which the act of May 22, 1918, should be administered. Section 1 of those regulations states that the present system of controlling the entry into and departure from the United States of alien enemies and other persons, as administered by the Department of State, the Department of the Treasury, the Department of Justice, the Department of Commerce, and the Department of Labor, is hereby confirmed, by virtue of the authority vested in the President as aforesaid, and shall continue in full force and effect in the continental United States as defined herein until the 15th day of December, 1918, and in the outlying sections of the United States until such time or times as the Secretary of State shall designate, when the following rules and regulations shall become operative and shall succeed all rules and regulations and orders inconsistent with them. Then it goes on to say that the Secretary of State is hereby authorized in his discretion to prescribe exceptions, and so forth. Then in another part of the executive order the President says: "I hereby designate the Secretary of State as the official who shall grant, or in whose name shall be granted, to aliens to depart from or enter the United States; I hereby direct all departments of the Government to cooperate with the Secretary of State in the

execution of his duties under this proclamation and the rules promulgated in pursuance thereof; they shall upon his request make available to him for that purpose the services of their respective officials and agents."

Mr. ROGERS. During the past two years have you known of instances of would-be political refugees who have been prevented from coming to the United States because of our visé regulations?

Mr. CARR. Would-be political refugees?

Mr. ROGERS. In other words, refugees who seek to leave their country but who have been prevented from leaving or from entering the United States because of our passport and visé regulations?

Mr. CARR. I do not recall any such cases, do you, Mr. McBride, of a person leaving his country for political reasons and being prevented from doing so by our visé regulations?

Mr. McBRIDE. No, sir; I do not recall any such case.

Mr. ROGERS. The case which has been so recently so much in the newspapers would be that type of case, would it not?

Mr. CARR. No, I do not think it would be, because my understanding is that in that particular case the gentleman's testimony before the immigration officers showed very clearly that he was coming into the United States for a specified length of time, for certain specific purposes after which he was going to return to his own country. There was nothing in his testimony which indicated, so far as I am aware, any political persecution or the fact that he was a refugee from some other country. Am I right Mr. McBride?

Mr. McBRIDE. Yes. He stated that he was going to return within a specified time.

Mr. ROGERS. I do not know whether you can answer this question, Mr. McBride, but is that particular case the sort of case that you would have given the sanction of the department to, if it had been presented to the department in the ordinary course?

Mr. McBRIDE. No, sir. It is just an ordinary stowaway case, so far as our regulations are concerned.

Mr. ROGERS. The suggestion that you made this morning, Mr. Carr, in your draft of language for the bill in the matter of passports would not change in any way the freedom of action which you now have in the matter of granting admission in what you believe to be desirable cases. Is that true?

Mr. CARR. I think that is true, certainly with respect to any person who is fleeing from any other country to this country on account of political persecution. The only doubt in my mind is whether, by virtue of the fact that political refugees are expressly excepted by the provision, the act may not operate by construction to narrow the authority which the Secretary now possesses in respect to other persons who are not refugees. I have not considered that language in that light, but I will do so. It certainly does not narrow the Secretary's authority so far as the political refugee is concerned but it definitely grants that authority by law.

Mr. ROGERS. Yes, and it gives him the moral sanction of Congress for doing more freely what he has the technical right to do to-day.

Mr. CARR. Precisely.

COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Friday, January 28, 1921.

Mr. NEWTON. Mr. Chairman, I have a matter that I think ought to be brought up. The members of the committee will recall the bill, H. R. 15857, which is in the first subdivision there. This is a bill regulating the granting of visés by diplomatic and consular officers of the United States. Mr. Moores has offered one amendment and another was offered by Mr. Mason. In view of the fact that I have previously talked with the State Department in connection with the matter, I wanted to call their attention to the amendments and to get their ideas in connection with them. I also discovered that, whereas we had changed one portion of the bill on page 1, we had neglected to make an amendment of the similar clause on page 2, so that the bill did not read the way that it should have read upon being reported out of the committee. Therefore I propose to make a motion to reconsider the action of the committee in reporting the bill. I first took the matter up with the Secretary of State and then with Mr. Moores, so as to get his ideas with reference to this amendment.

Now, an amendment was offered on page 2, line 6, where an exception is made for viséd passport to any alien presenting himself at a port of the United States for admission. Then Mr. Moores's first amendment comes in, reading: "Or at a port of any foreign country where a United States consular officer is maintained." No objection at all was offered to that provision. Then Mr. Moores offered an amendment on page 2, line 16, after the word "passport" and the period, as follows:

The proof required that the applicant for admission is seeking to avoid political persecution may be made by affidavit of the applicant for admission, supported by affidavit of one or more disinterested persons, which in the case of applicants at foreign ports shall be presented to the proper consular officers and transmitted to the Department of State.

My recollection is that Mr. Moores's object in offering that amendment was to provide for a record, so that either the Government or the applicant would have some kind of record to ascertain the grounds upon which the applicant was either admitted or denied admittance. So I advised the State Department that that was the purpose of Mr. Moores's amendment, and asked them for an opinion in regard to it. Their opinion was somewhat similar to my own, in that the language used might be construed as restricting the nature of the proof to that of the use of affidavits almost exclusively.

Mr. Moores did not intend that, and, obviously, the State Department, or any other department of the Government, should not be restricted as to the nature of the proof which must satisfy them. Therefore, I took the matter up with Mr. Moores, and we agreed upon the following language, which I submitted to the State Department and which they said was in every way acceptable to them:

Strike out all of that portion of Mr. Moores's amendment and insert in lieu thereof the following, on page 2, line 16, after the word "passport" and the period:

"The proof herein referred to in every case shall be reduced to writing. The Secretary of State is authorized and directed to prescribe the rules and regulations governing the nature of the proof required and the character of the evidence to be received."

Mr. LINTHICUM. Why do you use the word "authorized" in that connection?

Mr. MASON. It makes the Secretary of State still the boss as to who shall come in.

Mr. NEWTON. The provision is that he shall make proof to the satisfaction of the Secretary of State. He is the officer to whom proof shall be made, and this prescribes that the evidence shall be reduced to writing and shall be in accordance with forms and regulations prescribed by the Secretary of State.

Mr. MASON. I think that is an improvement on Mr. Moores's amendment, because Mr. Moores's amendment requires them to make proof in regard to political persecution, and this amendment would cover racial and religious persecution. That is an improvement, but the whole thing still leaves the Secretary of State as the boss.

Mr. NEWTON. That was in the original provision. Mr. Moores's amendment went to the question of proof and did not cover it as broadly as the original authorization.

Mr. LINTHICUM. You say, "The Secretary of State is authorized and directed," etc. Why should you use the word "authorized" in that connection when you have directed him to do certain things?

Mr. NEWTON. That is the usual form.

Mr. LINTHICUM. I move that the word "authorized" be stricken out, so that the Secretary of State may be simply directed to do it. I can not see the necessity of authorizing him to do something that he is directed to do.

The CHAIRMAN. That is the usual manner of stating it—that is, that the official is authorized and directed.

Mr. MASON. That is the usual legislative language and that language is right and proper.

Mr. LINTHICUM. I would like to have eliminated the unnecessary language.

Mr. TEMPLE. If we direct him to do certain things we assume that he must have authority to do it. We must first authorize him and then direct him as to the manner in which he shall use the authority, but the authorization should precede the direction.

Mr. NEWTON. I am using the usual phraseology.

Mr. TEMPLE. It is usual to employ the term "authorize" and there is a reason for it. Manifestly, he can not exercise an authority unless it has first been conferred upon him. Therefore, in the first place, we authorize him, and then proceed to direct him as to the manner in which he shall use his authority.

Mr. LINTHICUM. If we direct him to do something it is to be presumed that we give him authority to do it.

Mr. TEMPLE. Yes, sir; it is an implied authority, but that language would make it clear.

Mr. NEWTON. I move a reconsideration of the vote by which the bill H. R. 15857 was reported out favorably, as amended.

(The motion of Mr. Newton was carried.)

Mr. NEWTON. I move that the second part of Mr. Moores's amendment, as read by me a moment ago, be stricken out.

Mr. MASON. Is that bill now before the committee or has it been reported out?

The CHAIRMAN. It has not been reported out.

Mr. MASON. It was authorized to be reported out?

The CHAIRMAN. Yes.

Mr. MASON. I do not want to expedite this legislation in any way.

The CHAIRMAN. It seems perfectly clear to me that where a bill has not been reported out of the committee, the committee can recall its authorization and amend it in any way it sees fit.

Mr. NEWTON. Any additional amendments, of course, as I understand it, would be considered.

Mr. TEMPLE. We have just adopted a motion to reconsider it, and we are proceeding to reconsider an amendment.

Mr. LINTHICUM. We have adopted a motion to reconsider it, and the bill was reported.

Mr. TEMPLE. That brings it back to where it was when the motion to report was pending.

Mr. NEWTON. With all amendments adopted in force and effect.

The CHAIRMAN. That was my understanding.

Mr. NEWTON. I move to strike out that portion of Mr. Moores's amendment read by me and to insert in lieu thereof, page 2, line 16, after the word "passport" and the period, the following language:

The proof herein referred to in every case shall be reduced to writing. The Secretary of State is authorized and directed to prescribe the rules and regulations governing the nature of the proof required and the character of the evidence to be received.

I move the adoption of that amendment.

Mr. MOORES. I want to say one word about this. My notion in submitting this amendment was that the bill as drafted would permit the exercise of rank favoritism by either the consular officers or the Secretary of State. Since there was always the danger that that might be done, I was endeavoring to guard against it by providing a stricter rule under which men in like conditions would be treated alike. For that reason I prepared that amendment. The Secretary of State objecting to it, I drafted this other amendment and submitted it to Mr. Newton, who was satisfied with it, and I believe that it would go a long ways toward preventing favoritism. It will preserve the record of each case so that the courts can correct favoritism if it is exercised in the department. It is for that reason that this amendment is offered, and that is the only reason. It is for the protection of both the applicant and the Secretary of State. It is for the protection of the Secretary of State and of the consular service from charges of favoritism.

Mr. MASON. I think that statement is fair, and that the amendment is an improvement, if you can improve a thing that is absolutely wicked, bad and wrong. This still leaves with the Secretary of State the power to make rules and regulations. Now, if we get an Irishman as Secretary of State, or a Secretary of State of Irish blood, he would make rules and regulations that would keep the English out.

Mr. HOUGHTON. They could come in under passports.

Mr. MASON. If we should have an English President, as we have now, then you would have rules and regulations that would keep the Irish and South Africans out.

Mr. LINTHICUM. What is the next President? I have heard various statements about that.

Mr. MASON. He is 100 per cent American until he refuses to make the appointments we want, and then we will doubt his Americanism. We can not tell whether he is an Irishman or an Englishman until we see who is the collector of the port of Chicago. Seriously, the whole objection is that we do not want the Secretary of State to determine who shall come in. Under your bill, as it is framed now, it would prevent the coming into this country of people who want to present their cause or their actions in regard to their efforts to achieve self determination.

We have received those people ever since this Government was founded, beginning away back at the time when Louis Kossuth came over here. We have now in my State quite a number of Protestant clergymen and the Irish people have sent Irish Protestants over here to tell us their side of the controversy. We have had the English Protestants over here, also, but under this bill we could hear but one side of it, because with an English Secretary of State the Irish Protestant could not get a passport. They could not get passports to come over and present their case for the consideration of Congress or for the consideration of the American people. The whole bill being wrong, I shall vote against any amendment which leaves with the Secretary of State the right to make rules and regulations which amount to law, and to say who shall come into this country.

Mr. NEWTON. Of course, the language used by me in the body of the act provides that any alien presenting himself at a port for admission, if otherwise admissible, who shall prove to the satisfaction of the Secretary of State and the Secretary of Labor that he is seeking admission to the United States to escape or avoid political persecution, etc., shall be considered as entitled to admission. That language was taken verbatim from the immigration law. I merely followed the existing immigration law in the wording of that portion of the bill.

Mr. MASON. That is the immigration law, but as he must have a passport, they have the power to keep the desirables there and to send the undesirables away.

Mr. NEWTON. This provision covers the case where he is not required to have a passport. Whether he has a passport, or not, under the immigration laws, if he can prove to the satisfaction of the Secretary of State and the Secretary of Labor that he is coming to this country to escape political persecution, then he is admissible even though he can not pass the literacy test.

Mr. MASON. Suppose that he comes here and says that he can not get a passport because he is like the East Indians who are here lecturing and talking and giving us information in regard to their condition in India. They could not come here. They could not get passports because they could not say that they were coming to escape persecution, but that they were coming here for the deliberate purpose of lecturing to the people and informing the people as to their condition in India.

Mr. MOORES. There is not one who would not say that he came to escape political persecution.

Mr. MASON. If he intended to go back to India or to the Republic of South Africa, and there was a South African Republic until England choked it to death, they could not do it.

Mr. LINTHICUM. I move, as a substitute to the motion that has been made, that the amendment be adopted and that the bill be reported with the amendment.

Mr. MASON. I do not want to take up the time of the committee.

The CHAIRMAN. There is one other measure that I would like to dispose of. I want to ask Mr. Newton one question: Mr. Newton, would you have any objection to an amendment to the amendment providing that the public shall have access to those rules and regulations? I am told that they keep them more or less confidential, and I see no reason why they should be confidential.

Mr. NEWTON. I never had any difficulty myself in getting anything at the State Department that I asked for.

Mr. MOORES. These regulations ought to be posted up in every consular office.

Mr. MASON. One of my colleagues stated that the State Department informed him that these rules were confidential.

Mr. HOUGHTON. One of my colleagues stated that the department said they would be glad to show anything.

Mr. NEWTON. They are confidential to this extent: The State Department is admitting certain people without passports. That refers to people who came here and have gone again. They are people who have come to this country and, perhaps, become naturalized, and have gone over to Germany or some other country and then have failed to report to the American embassy, as the law requires. As a result, such a person is not an American citizen and he is not a foreign citizen. He is not recognized as such, and he is, indeed, a man without a country. Now, is a man like that to be kept out?

That is one of the several cases where they admit without a passport. Now, obviously, they do not want to advertise the fact generally that there are ways whereby a man can get in without a visé or they would be simply besieged with cases claiming to be exceptions, and only to that extent are these instructions confidential.

(The amendment was adopted.)

Mr. NEWTON. Mr. Chairman, on page 1, line 10, no one on the committee likes the phrase "document in the nature of a passport," because it was known that the State Department viséd an application and that was in no sense a document in the nature of a passport, and so out of that came an amendment of this language: "In case of inability to procure a passport, a document relating to identification setting forth the facts usually required in a passport." I asked them what they thought of that provision and they had no serious objection to it other than the fact they did not like the phrase "in case of inability to procure a passport" in that it was rather too general. A man might be unable to procure a passport, as Mr. Houghton suggested, because he did not have the \$5 or \$10 to pay for it, and the suggestion was therefore made that instead of using the phrase "a document in the nature of a passport," the phrase "a document in lieu of a passport, the form and substance of which shall be prescribed by the Secretary of State," be used.

The CHAIRMAN. Yes; that is a good idea.

Mr. NEWTON. And I therefore move to amend the phrase I have just read by inserting the phrase, "a document in lieu of a passport, the form and substance of which shall be prescribed by the Secretary of State."

(The amendment was adopted.)

Mr. NEWTON. An inadvertence in the amendment occurs on page 2 of line 16, where the phrase is used, "or document in the nature of a passport." Of course, with the change on page 1, we should have changed the language on page 2, line 16, and therefore I move you that the phrase "or document in the nature of a passport" be stricken out and in lieu thereof this language be used, "or document in lieu of a passport, the form and substance of which shall be prescribed by the Secretary of State," so that this language will conform to the preceding language on page 1.

Mr. HOUGHTON. Mr. Newton, do I understand that anybody wanting to come to this country has a choice as to whether he shall take a passport or a document in lieu of a passport?

Mr. NEWTON. No.

Mr. HOUGHTON. Why not? Is not that exactly what you say? Why is not the option clearly before any man?

Mr. NEWTON. I see your point there. We still open the door. I like that phrase, "document in lieu of a passport."

Mr. HOUGHTON. I do, too, but as an emergency measure and one that can only be used in case of an emergency.

Mr. NEWTON. Yes; that is the purpose and intent of it.

Mr. HOUGHTON. If we follow Mr. Mason's thought, as I understand it, to the ultimate conclusion, we would let people in without passports.

Mr. MASON. Oh, yes.

Mr. HOUGHTON. Now, I do not believe in letting them in without passports or something equivalent to a passport, which is a certification regarding them, but I do not think, with a million or more people coming in here yearly, everybody should have the option of taking either one form or another. The essence of the one should be to meet an emergency. Can you not lay this on the table for the moment? It is still before the committee and we can take it up our next meeting, which can be to-morrow or at any time the chairman fixes.

Mr. NEWTON. If we could meet to-morrow——

The CHAIRMAN (interposing). We are going to meet to-morrow. In the meantime, suppose we all think over this proposition of whether or not we are making a mistake in destroying this bill as originally drafted by the State Department. They construe those words, "or document in the nature of a passport," to mean a petition, and it meets the objection which you make, which is a very sound one. I am merely suggesting this.

Mr. HOUGHTON. You will remember, Mr. Chairman, that the basis of all our discussion was the point raised by the gentleman from Alabama that we were putting in the hands of the Secretary of State under certain circumstances the right to exclude, not by warrant of law, not by any conditions laid down by the Congress or even understood by us, but as he saw fit. Now, that is a very serious objection, in my opinion; indeed, it is so serious an objection that I have very grave doubts that the bill could pass if that point was once raised. This bill betters that, of course, and it betters it so much that I should be inclined to accept it if it is not made optional with the million people yearly coming to this country which form they would take.

Mr. LINTHICUM. Would not the regulations issued by the State Department cover the point you make there?

Mr. HOUGHTON. I do not see how as this bill is drawn. You say definitely that they can come in under one or the other.

Mr. LINTHICUM. We certainly put it in their hands to issue certain regulations as to when the other one can be accepted. A party not being able to obtain a passport by reason of some political matter or for some other reason, then they will accept some other document. It seems to me to clearly put it in the hands of the State Department to designate under what conditions the other paper may be used in lieu of a passport.

Mr. NEWTON. May I interrupt right there? How would it do to say "document in lieu of a passport, to be issued under regulations prescribed by the Secretary of State"?

Mr. MOORES. We can change that in fewer words by saying "the latter to be used only upon proof that proper application for a passport has been refused."

Mr. HOUGHTON. I should think that would meet the objection pretty closely.

Mr. MASON. That would not be fair because a man who is a fugitive from political persecution can not say he has applied for a passport, because he could not apply for it.

Mr. HOUGHTON. To start with, he does not want to give notice to the party he is flying from that he is about to fly.

Mr. LINTHICUM. Does not this bill except a man seeking admission to avoid political persecution? He does not have to comply.

Mr. MASON. The suggestion I make is to the requirement that he must show that he applied for a passport.

Mr. HOUGHTON. I make a motion, Mr. Chairman, that this matter be left on the table until to-morrow.

The CHAIRMAN. I think that is a very good idea.

Mr. MOORES. Inasmuch as I can not be here to-morrow, I will have to vote "no" on that.

Mr. HOUGHTON. Well, make it Monday. Can you be here Monday?

Mr. MOORES. No. Why not dispose of it to-day and get rid of it? I move the chairman be authorized to introduce the bill as amended, and to report favorably on it.

The CHAIRMAN. I would like something done to meet the objection of Mr. Houghton.

Mr. TEMPLE. If you put in the phrase of Mr. Moores's on the first page, then your second page covers the exceptions applying to aliens who are subject to religious persecution, and it would not require them to go and ask for a passport.

Mr. MOORES. I think you are right about that.

Mr. TEMPLE. Then, they would be no more required to have that than they would be to have a passport.

Mr. HOUGHTON. May I make this suggestion somewhat in line with Dr. Temple's, and that is to say, "without a valid passport or," and then go over to page 2 where it provides in case "he is seeking admission to the United States to escape or avoid political persecution, and so forth," then a document in lieu of a passport.

Mr. TEMPLE. Then, in line 15, of page 2, it is provided, that an alien "entitled to admission whether or not he is the bearer of a valid passport or document in the nature of a passport," shall be considered as entitled to admission. That makes the exception. It ex-

cepts him from this requirement to have made application just as definitely as it excepts him from having a passport.

Mr. HOUGHTON. I think that is true. I think that is a general exception.

Mr. TEMPLE. He does not have to have a passport or show he has asked for it.

Mr. NEWTON. That is correct.

Mr. TEMPLE. And then we would put the phrase suggested by Mr. Moores on the first page instead of down here.

Mr. MOORES. That is where I offered it.

Mr. TEMPLE. Then the general exception covers the passport and application and everything else.

Mr. MOORES. I think so. That was offered for the first page, as you suggest.

Mr. LINTHICUM. Mr. Chairman, I move a committee consisting of Mr. Newton, Mr. Houghton, and Mr. Moores be appointed to thrash out this question and report back to the committee.

Mr. HOUGHTON. Will you not include Mr. Temple also?

Mr. LINTHICUM. Yes.

Mr. TEMPLE. I have not any further contribution to make. I was simply calling attention to Mr. Moores's original intention.

Mr. HOUGHTON. Will you be here to-morrow, Mr. Moores?

Mr. MOORES. You had better put somebody else on that committee who is not unfriendly to the bill. I am not friendly to the bill, because I do not think it goes far enough and I do not think it is safeguarded, and I am against it for that reason.

Mr. LINTHICUM. I move that the chairman appoint a committee of three.

The CHAIRMAN. You have heard the motion that the chairman be authorized to appoint a committee of three to draft this amendment. The motion named Mr. Houghton, Mr. Newton, and Mr. Moores.

(The motion, being duly seconded, prevailed.)

Mr. MOORES. I would like to have Dr. Temple substituted for myself, if you can.

The CHAIRMAN. They would like to have the benefit of your work on this, Mr. Moores. I know I would.

Mr. HOUGHTON. I would like to move that Dr. Temple be added to the committee.

(The motion, being duly seconded, prevailed.)

The CHAIRMAN. Gentlemen, we will have another meeting to-morrow at 10.30 o'clock in relation to the purchase of embassies and the raising of our representation in China, and I would like a full attendance.

(The committee thereupon adjourned.)

COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Monday, January 31, 1921.

The committee met at 10.30 o'clock a. m., Hon. Stephen G. Porter (chairman) presiding.

The CHAIRMAN. I would like very much to dispose of this passport matter this morning. Mr. Newton, do you desire to take it up

now or after we finish the testimony of Mr. Rubin. Has the subcommittee come to an agreement?

Mr. NEWTON. Yes; we have.

The CHAIRMAN. Who is the chairman?

Mr. NEWTON. I think I was the first named. I do not know that there was any chairman named.

The CHAIRMAN. Then suppose you make the report.

Mr. NEWTON. Mr. Chairman, this is H. R. 15857. On page 1, line 10, the phrase "or document in the nature of a passport" was the original language, and that was amended so as to read "in case of inability to procure a passport, a document relating to identification setting forth the facts usually required in a passport." The subcommittee took the matter up with the official of the State Department having to do with passport control, and agreed upon this language, which will take out the uncertainty of the phrase, "in case of inability," or at least to a very large extent. Therefore, I move that in lieu of the language set forth in the bill, that that whole language be stricken out; that is, "in case of inability to procure a passport," and that on page 2, line 16, the phrase, "or document in the nature of a passport" be stricken out. This would make the first paragraph of the bill therefore require a passport except as to seamen, except as to people from the British West Indies, Canada, etc., and except as to those avoiding political, racial, or religious persecution. In order to take care of people not coming under those three exceptions—that is, seamen, Canadians, and those seeking to avoid political or racial persecution—

Mr. SMITH of Illinois. How do they get in?

Mr. NEWTON. They get in without a passport.

Mr. SMITH of Illinois. Upon proof of what they are trying to do?

Mr. NEWTON. Yes; upon proof of that fact no passport is required of them, but to take care of those exceptional cases that would not be included in the three exceptions, the committee recommends, after conference with the State Department, the following as a new sentence to follow the word "passport," on line 16, page 2:

When any alien who is otherwise admissible shall present through the appropriate diplomatic or consular officer of the United States proof, of a character satisfactory to the Secretary of State, that he is unable to procure a passport from his own Government for reasons which would not render such alien inadmissible under the immigration laws of the United States, the Secretary of State shall authorize the said diplomatic or consular officer to issue to the said alien a document in lieu of a passport which shall set forth all of the facts usually required in a passport, and such document when so issued shall be treated as a passport, within the meaning of this act, for the purpose of admission into the United States: *Provided*, That for each such document issued there shall be collected and paid into the Treasury of the United States the fees prescribed by law for the issuance of a passport, and for the visé of each such document, the fees prescribed by law for the granting of a visé.

That provision we put in there in order that there might be no inducement for a man to figure out a reason why he should be admitted without a passport, because it would be \$10 cheaper. In this way we collect the same fee from the document in lieu of a passport that we would if they were able to procure a passport. Mr. Chairman, I move the adoption of my amendment striking out the two phrases in question and inserting in lieu thereof the new provision which I have just read.

The CHAIRMAN. You have heard the motion, gentlemen; are there any remarks?

Mr. BEGG. Mr. Chairman, I heard the reading, but I do not know that I know what is in it, and I think this is an important proposition.

The CHAIRMAN. Suppose the amendment be reported again.

Mr. BEGG. Have you copies so we can look at it?

The CHAIRMAN. It seems to meet the situation as well as we can meet it.

Mr. LINTHICUM. Do you like that word "shall" issue, or would it be better to make it "may" issue.

Mr. SMITH of Illinois. That is the gist of the whole thing.

Mr. NEWTON. That has been the whole objection about allowing too much discretion.

Mr. BEGG. This proposed amendment comes in where?

The CHAIRMAN. In line 16.

Mr. BEGG. What is out?

Mr. NEWTON. "Or document in the nature of a passport."

Mr. BEGG. And this whole thing goes in at that place?

Mr. NEWTON. Yes.

Mr. HOUGHTON. Does it not go in as a separate paragraph?

Mr. NEWTON. There is a period after the word "passport" in my amendment.

Mr. HOUGHTON. Of course, it does not make any difference.

Mr. NEWTON. It does not seem to me that it requires a separate paragraph because the following sentence, "the Secretary of State is authorized, in lieu of passport requirements, to make special regulations," etc.; also pertains to the same thing and is in the same paragraph.

Mr. DICKINSON. Has this amendment been agreed to by all the subcommittee?

Mr. NEWTON. All except Mr. Moores, who was away Saturday and said he would not be here to-day. However, from our talk with him that afternoon, it embodies his ideas, as I understand them, and as the committee understood them. He was trying to define as closely as possible and limit the discretion of the State Department.

Mr. BEGG. Now, Mr. Chairman, may I ask a question or two on this proposition?

The CHAIRMAN. Certainly, sir.

Mr. BEGG. When we pass this bill, are we not, in a sense, offering an affront to the other nations of the globe. When a national requires a passport for leaving a country, it is assumed, certainly, that they have a valid reason, is it not?

The CHAIRMAN. I think that is a rather violent assumption in some cases.

Mr. BEGG. You think it is.

Mr. HOUGHTON. You do not think, Mr. Begg, that the issuing of a foreign passport should either limit or influence our admission of anybody here?

Mr. BEGG. Let me turn it around, if we pass a law requiring citizens of the United States to have passports before they leave, and if any country, Mexico, Great Britain, or any other country, turns around and says to our people, "You can ignore that law; we will take you

anyhow," what is the diplomatic standing between the two nations on that proposition?

Mr. HOUGHTON. It was discussed pretty freely before the committee, and we were advised, as I understand it, Mr. Newton, that the position taken is wholly without objection?

Mr. BEGG. I can not see anything else but a violation of the laws of that country.

Mr. HOUGHTON. It may be that is true, but you asked the question and I answered it. We talked the matter over with the representative of the department and he said that as drawn the resolution was inoffensive.

Mr. NEWTON. Let me suggest this: The way the provision is worded it is to be used as a passport, not for the purpose of getting out of the country, but only for the purpose of admission into the United States.

The CHAIRMAN. That is the point.

Mr. BEGG. Absolutely, but suppose a condition arises in this country whereby we do not want our citizens to leave. We will just assume that that condition arises. Let us take Bergdoll as an illustration. I am saying to you that when Germany admits that kind of a citizen and protects him from the laws of this country I do not look with very much favor on Germany or upon her official government, and supposing that some men have committed some kind of a crime against the Government in any country and they say they will not let them out and will not give them a passport, and then they go around to our diplomatic and consular officer and we say, "Well, hang with your government; we will take you." I am just asking the question, What is the international—

Mr. HOUGHTON (interposing). How far would you be willing to carry that, Mr. Begg? Would you be willing to say that no one shall come into the United States that has not a foreign passport?

Mr. BEGG. If we are going to lay down a passport control absolutely, I say lay it down. If you are not, then leave it out without a passport.

The CHAIRMAN. Mr. Begg, so far as the issuance of a passport or paper in lieu of a passport is concerned by the United States, that is merely for the purpose of allowing the admission of a man into the United States.

Mr. BEGG. I grant that, Mr. Chairman, and he will have no trouble getting a passport if his country wants him to leave.

The CHAIRMAN. Let us assume his country does not want him to leave on account of his political beliefs or his religious beliefs, or something of that sort, it has always been the policy of the United States to allow those people to come in.

Mr. BEGG. And I have no criticism of that policy at all, but I can not see why you have not built up a worse situation than you had before with this amendment. I grant that I am taking snap judgment, but I had no means of seeing the amendment until this moment.

Mr. HOUGHTON. I do not think perhaps Mr. Bragg differentiates between two points. We admit freely here without passport any political refugee.

Mr. BEGG. Yes; but our intention is not so to do now.

Mr. HOUGHTON. Just wait a moment. Let us anticipate a condition that might arise if one or more countries in Europe decided that while they were willing that the very old should leave, or that the dependent young should leave, they were not willing that an able-bodied man or woman should leave; and suppose that man or woman, therefore, can not get a passport. This bill provides that they can come into our country via the laws that we establish, and that they can get in lieu of this passport a document which admits them. You raise the question, Is that offensive to the foreign Government? And the answer to that is, No.

Mr. BEGG. Well, I am not sure your conclusion is correct. It may be entirely within the province of reason to suppose that France or Belgium may need to preserve their man power for the purpose of recuperating and rebuilding her countries. Suppose those countries do decide that, then we say to their subjects, "Well, there is nothing to that; we can get around that easy enough;" where do we stand diplomatically?

Mr. HOUGHTON. I gave you the answer twice.

Mr. BEGG. I do not see your answer at all. That is no answer at all to me.

Mr. HOUGHTON. That may be. I do not profess to give you a reason that you agree with. I am giving you the reason that has been handed down to us and with which I entirely agree.

Mr. DICKINSON. Mr. Chairman, it seems to me this matter has been discussed here pro and con for two weeks before this committee, and I would like to see a vote on this amendment.

Mr. BEGG. Mr. Chairman, I just want to say that I do not think there is any need for that kind of speed. We have not discussed this here for two or three weeks, and here comes in an amendment that is very vital, and we are asked just to grab it. It may be the rest of this committee have had an opportunity to see this amendment, I do not know, but I am certain I did not know anything about it until this moment.

Mr. NEWTON. Mr. Begg, you were not here at a meeting two or three days ago when the substance of this resolution was discussed here and a subcommittee appointed to draw it up after a conference with the State Department.

Mr. BEGG. I was here that day.

Mr. NEWTON. No; you were not here on that day.

Mr. BEGG. When the committee was appointed I was here, and I have been here at every meeting I have had any notice of.

Mr. BROWNE. I would like to hear the amendment read the way it is now.

Mr. MASON. May we make suggestions as we go along?

Mr. NEWTON. Possibly Mr. Browne would rather have it read entire:

When any alien who is otherwise admissible shall present through the appropriate diplomatic or consular officer of the United States proof of a character satisfactory to the Secretary of State that he is unable to procure a passport from his own Government for reasons which would not render such alien inadmissible under the immigration laws of the United States, the Secretary of State shall authorize the said diplomatic or consular officer to issue to the said alien a document in lieu of a passport which shall set forth all of the facts usually required in a passport, and such document when so issued shall be treated as a passport, within the meaning of this act, for the purpose of

admission into the United States; *Provided*, That for each such document issued there shall be collected and paid into the Treasury of the United States the fees prescribed by law for the issuance of a passport, and for the visé of each such document the fees prescribed by law for the granting of the visé.

This, I may say, Mr. Browne, takes the place of the phrase, "or document in the nature of a passport," which is stricken out at line 10, page 1, and at line 16, page 2.

Mr. MASON. This proposed amendment states, "shall present through the appropriate diplomatic or consular officer of the United States proof of a character satisfactory to the Secretary of State," and compels the procurement or the making of that statement before the granting of the document in lieu of a passport.

Mr. NEWTON. Yes; he must make a showing.

Mr. MASON. And being before a consular officer, it must be in the other country.

Mr. NEWTON. Not necessarily.

Mr. MASON. Suppose he came here as a stowaway.

Mr. ACKERMAN. Suppose he got out of Germany and into France, if he presented it to a diplomatic or consular officer in France it seems to me that would hold.

Mr. MASON. Yes; but suppose he lands here as a stowaway.

Mr. HOUGHTON. Then he would come under the immigration law.

Mr. MASON. The Immigration Bureau has no diplomatic power.

Mr. HOUGHTON. But, Senator, this is intended to cover cases arising outside of the United States.

Mr. NEWTON. The language of the amendment is, "when any alien who is otherwise admissible shall present through the appropriate diplomatic or consular officer of the United States"—

Mr. MASON. Suppose he is trying to escape either a religious or irreligious persecution, or has committed some political crime?

Mr. NEWTON. Then he does not need a passport at all under this.

Mr. MASON. Suppose he comes over here as a stowaway; to whom does he present this proof?

The CHAIRMAN. To the appropriate diplomatic or consular officer of the United States. If he came here as a stowaway he would present it to the Secretary of State.

Mr. SMITH of Illinois. Do I understand that if he simply makes a showing that he is trying to escape political or religious persecution he is eligible?

Mr. NEWTON. Without a passport or visé.

Mr. SMITH of Illinois. All he has got to do then is just to say that.

Mr. NEWTON. No; he has got to show that satisfactorily.

Mr. SMITH of Illinois. Who holds the discretionary power to say whether he has made such a showing or not?

Mr. NEWTON. The Secretary of State.

Mr. SMITH of Illinois. Then it goes right back to the same thing.

Mr. NEWTON. The application of any law must be lodged somewhere.

Mr. SMITH of Illinois. You have an immigration law that covers that now.

Mr. MASON. Yes; under the immigration law he would have to go back, as it is now.

Mr. NEWTON. No; that if he was otherwise admissible. Of course, if he was an anarchist.

Mr. MASON (interposing). I understand that.

Mr. NEWTON (continuing). Or if he was diseased, then, of course, he would have to go back, but this provision merely requires a visé for everybody with the exception of seamen and people living in near-by countries, and those who through political, racial, or religious persecution, it is presumed, can not procure a passport. They do not have to have a visé. Now, by this provision, we make a further exception, and we say that in the event a man can not procure a passport through reasons that do not make him ineligible under our immigration laws, he shall be admitted upon a document in lieu of a passport.

Mr. MASON. The trouble about it, it seems to me, Mr. Newton, is that it implies he has got to show he made an effort to get a passport.

The CHAIRMAN. Certainly.

Mr. HOUGHTON. No; that is specifically taken out.

The CHAIRMAN. He must show that he is unable to do so.

Mr. NEWTON. The question of whether he was unable to procure a passport is a matter of proof. If there is a well-recognized law in the country that no one can get a passport, then the Secretary of State does not need to have proof to show that the man should have tried to get it, because that would have been foolish. It all goes to the question of proof, whether he was able to procure a passport. It seems to me that this provision limits the discretionary power of the Secretary of State to the very minimum.

Mr. MASON. Can any of my colleagues state from memory just what the provision is for those who come in under the immigration law for educational purposes or for lecturing? I have not that in mind.

Mr. NEWTON. I have not, either.

Mr. MASON. Do you know, Mr. Chairman?

The CHAIRMAN. No; I do not; but there is no reason why they should be excluded.

(There being no further remarks, the motion of Mr. Newton, having been duly seconded, prevailed.)

Mr. NEWTON. Now, Mr. Chairman, I make the motion that H. R. 15857 as amended be reported out favorably, to be taken up at the earliest possible moment.

Mr. LINTHICUM. Mr. Chairman, would it not be better to reintroduce the bill with the amendment and then report the bill out in that form?

The CHAIRMAN. That makes a more desirable record.

Mr. LINTHICUM. Decidedly; and you do not raise so many questions.

Mr. NEWTON. That is perfectly agreeable to me.

The CHAIRMAN. Then, a motion to the effect that Mr. Newton be instructed to introduce the bill and the chairman to report it out will be in order.

Mr. LINTHICUM. I make that motion.

(The motion having been duly seconded prevailed.)

Mr. MASON. The same understanding goes as to this new bill with reference to my right to file to your report my minority report.

Mr. NEWTON. Oh, yes.

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